

THE SORCERER'S APPRENTICE?
IMMIGRATION AND THE BOUNDARIES OF EUROPEANIZATION:
THE CASE OF SPAIN

By

James Joseph Donahue

Primary Thesis Advisor: Miguel Glatzer, Department of Development Studies,
Visiting Fellow at the Watson Institute for International Relations

Second Reader: Ulrich Krotz, Assistant Professor of Political Science

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Abstract of “The Sorcerer’s Apprentice? Immigration and the Boundaries of
Europeanization: The Case of Spain”
by James J. Donahue, B.A., Brown University, May 2007

Immigration is one of most salient international issues in the twenty-first century. In Western Europe, immigration policies are widely restrictive and exclusive of third-country nationals (TCNs). What accounts for these outcomes? Given the more liberal southern European approach, what is the relationship between regional and domestic policy structures? In unraveling these complex and under-researched interrelationships, this thesis advances three central arguments, using the case study of Spanish policy since the 1980s. First, immigration was framed as a security “threat” through “rival transgovernance” among various actors and “infra-processes.” Additionally, the EU’s market-making objectives and gradual supranationalization of internal free movement introduced a “social inclusion” agenda. Regional structures therefore reflect a “two-speed” integration process. Second, this “EU context” profoundly affected Spanish policymaking, evidenced by increasingly restrictive policies whose interpretation, internalization, and implementation is conditioned by domestic factors. Third, domestic actors’ preferences and identities reflect this variegated internalization and allow “feedback” that redefines the boundaries of regional policy structures. Together, these arguments reveal interesting conclusions with implications for immigration policy, foreign policy, and the very identities of “Europe(s).”

EPIGRAPH

The “Sorcerer’s Apprentice” is the English translation of Johann Wolfgang von Goethe’s 1797 ballad “Der Zauberlehrling,” which was based on Lucian of Samosata’s AD 150 frame story “Philopseudes”—“Lover of Lies.” The parable has since repeatedly shifted shape, inspiring various novels, an Alfred Hitchcock film, and the 1897 symphonic poem by Paul Dukas entitled “L’apprenti sorcier,” which was famously interpreted in Disney’s Fantasia. Regardless of the form, the essence of the allegory remains intact:

Before retiring for the evening, the Sorcerer orders his Apprentice to finish his daily chores. Left unsupervised, the Apprentice instead summons a broomstick to complete the tedious task of carrying small buckets of water to a central container to avoid overflow. The Apprentice—enchanted by the Sorcerer’s power but lacking wisdom—misuses what little magic he has learned, experimenting recklessly with unfamiliar techniques to control the broomstick’s movement. As the room begins to flood, the inexperienced Apprentice realizes he has not yet learned the magic word to demobilize the broom. Unable to control what he started, he requires the skilled Sorcerer to manage the crisis.

Figuratively speaking, the Sorcerer need not imply an evil wizard necessarily but simply one that practices magic, wicked or altruistic. Normative questions temporarily aside then, the Sorcery of advanced Western society entails the onerous endeavor to magically reconcile internal prosperity with external despair without opening the floodgates...

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ABBREVIATIONS

AP	Alianza Popular (Popular Alliance)
BBVA	Banco Bilbao Vizcaya Argentaria
CAP	Common Agricultural Policy
CCAA	Comunidades Autónomas
CDS	Centro Democrática y Social (Democratic and Social Center)
CEC	Commission of the European Communities (a.k.a. European Commission)
CFSP	Common Foreign and Security Policy
EC	European Community
ECJ	European Court of Justice
ECSC	European Coal and Steel Community
EEC	European Economic Community
EFC	External Frontiers Convention
EMU	Economic and Monetary Union
EP	European Parliament
EPC	European political cooperation
EU	European Union
EUMF	European Union Migrants' Forum
EURATOM	European Atomic Energy Community
EURODAC	European Data Archive Convention
EUROMED	Barcelona Conference (a.k.a. Common Strategy on the Mediterranean Region)
EUROPOL	European Police Office
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
IGC	Intergovernmental Conference
IR	International Relations
IU	Izquierda Unida (United Left)
JHA	justice and home affairs
JPC	Judicial and Police Cooperation
MLG	Multi-Level Governance
MPG	Migration Policy Group
NAPs	National Action Plans

NGO	Non-Governmental Organization
NLI	Neoliberal Institutionalism
OECD	Organization for Economic Cooperation and Development
OMC	Open Method of Coordination
PCE	Partido Comunista Española (Spanish Communist Party)
PJCC	Police and Judicial Cooperation in Criminal Matters
PNR	Passenger Name Record
PP	Partido Popular (Popular Party)
PSOE	Partido Socialista Obrero Española (Spanish Socialist Worker's Party)
QMV	Qualified Majority Voting
SEA	Single European Act
SIS	Schengen Information System
SLG	Starting Line Group
TCE	Treaty establishing a Constitution for Europe
TCNs	Third-Country Nationals
TEC	Treaty Establishing the European Community
TEU	Treaty on European Union (a.k.a. Maastricht Treaty)
UCD	Unión de Centro Democrática (Central Democratic Union)
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
VIS	Visa Information System

GLOSSARY

Europeanization, as defined by Cowles et al, is understood as “the emergence and development at the European level of a distinct political system, a set of political institutions that formalizes and routinizes interactions among the actors, and the growth of policy networks specializing in the creation of authoritative European rules.”¹ Scholars interested in Europeanization treat the supranational institutional patterns of the EU as independent variables in order to investigate resulting changes at the domestic level. My use of “Europeanization” is related to Alexander Wendt’s characterization of *institutionalization* as “a process of internalizing new identities and interests, not something occurring outside them and affecting only behavior.”²

Integration, in contrast to Europeanization, treats the EU as the dependent variable, emphasizing the agency of states (intergovernmentalism) or supranational bureaucracies and subnational interest groups (neofunctionalism) in the process.

Sovereignty, in crude form, is understood as the right of each state to have its own rules and institutions over an internationally recognized territory.³ Sovereignty is not a fixed conception. As Thomas Biersteker emphasizes, the components that make up our understanding of “sovereignty”—authority, identity, and territory—are contingent on historical and spatial context,⁴ as evidenced by the elimination of internal borders in the EU.

Immigration is used to describe the process by which extra-EU migrants enter Europe’s external borders, rather than intra-EU migration by EU citizens. Within this category,

¹ MG Cowles, T Risse, JA Caporaso, unpublished manuscript, cited in Joseph Jupille and James A. Caporaso, “Institutionalism and the European Union: Beyond International Relations and Comparative Politics,” *Annual Review of Political Science* 2 (1999): 439.

² Alexander Wendt, “Anarchy is What States Make of It: The Social Construction of Power Politics,” *International Organization* 46, No. 2 (Spring 1992), pp. 395 – 421, p. 399.

³ Adam Roberts, “Towards a World Community? The United Nations and International Law,” in Michael Eliot Howard and William Roger Louis, eds., *The Oxford History of the Twentieth Century* (New York, NY: Oxford University Press, 1998), pp. 305 – 318, p 317.

⁴ Thomas J. Biersteker, “State, Sovereignty, and Territory,” in Walter Carlesnaes, Thomas Risse and Beth A. Simmons, eds., *Handbook of International Relations* (London, UK: Sage, 2002), pp. 157-176, p 167.

several sub-categories are relevant, including (1) *economic or labor immigrants*; (2) *denizens or foreign residents*; (3) *political immigrants or refugees*; and (4) *aliens or illegal immigrants*.

Immigration policy can be broken down into two forms, “*stemming*” and “*soliciting*.” In Joppke’s words, these two categories “differ in their relationship to the underlying migrant flows: soliciting is about the creation of flows; stemming presupposes existing flows, and seeks to contain them.”⁵ While it is theoretically useful to conceptualize these two types of immigration policy as unique, Joppke emphasizes that in practice, they are not mutually exclusive and policymakers often employ elements of each simultaneously, though European immigration policies in recent years have been almost exclusively policies of “stemming”.⁶

Institutions, according to Douglass North, are the “rules of the game in a society or, more formally...the humanly devised constraints that shape human action.”⁷ The term “supranational” merely distinguishes EU-wide rules from domestic institutions—that an institution is “supranational” does not necessarily imply a formal structural bureaucracy.

Three related concepts are “soft law”, “norms”, and “international regimes”. By *soft law*, I refer to agreed-upon, non-binding rules and procedures advanced by a formal institution such as the CEC. Similarly, *norms* are informal standards of behavior—internalized by actors in the political system of the moment—that shape worldviews and influence policy. *International regimes*, following Keohane, are relatively informal rule and norm structures,⁸ characterized by a form of multi-level governance. Soft law, norms, and regimes are all institutions.

Following Slaughter, *governance*—as opposed to formal government—implies an informal, decentralized, multi-actor, and dynamic framework for collective problem solving.⁹

⁵ Christian Joppke, “European Immigration Policies at the Crossroads,” In Paul Heywood, *Developments in West European Politics 2* (Gordonsville, VA, USA: Palgrave Macmillan, 2002): 259 – 276.

⁶ Ibid, p 260.

⁷ Douglass C. North, *Institutions, Institutional Change, and Economic Performance*, (New York: Cambridge University Press, 1990), p 3.

⁸ Robert O. Keohane, “International Institutions: Can Interdependence Work?” *Foreign Policy* (Spring 1998): 82-96, p 85.

⁹ Anne-Marie Slaughter, “The Real New World Order,” *Foreign Affairs*, Vol. 76, No. 5 (1997): 183-197, p 184.

CHAPTER ONE INTRODUCTION

With an estimated 31,000 mainly African illegal immigrants reaching Spanish territory in 2006—more than seven times the number recorded in all of 2005, and an additional 12,000 caught destined for Sicily, the already fiery immigration debate in Europe has found new fuel.¹ In early September 2006, French Interior Minister Nicolas Sarkozy criticized Spain for asking the European Union (EU) to help manage the increased influx of illegal immigrants, branding the Spanish government the “sorcerer’s apprentice” for its liberal immigration policy.² Sarkozy’s criticism was made in reference to a 2005 policy by the Spanish Socialist Worker’s Party (*Partido Socialista Obrero Español*, PSOE) that regularized at least 600,000 illegal immigrants, a move that many European leaders—including European Commission (CEC) Vice President Franco

¹ “Boatloads of African Boys Risking Lives to Get to Spain,” *CNN*, 6 October 2006 [periodical on-line]; available from <http://www.cnn.com/2006/WORLD/africa/10/06/boy.refugees.reut/index.html>; Internet; accessed 26 October 2006; Daniela Gerson, “Spain’s Guest-Worker Program Provides Test Case for EU,” *The Christian Science Monitor*, [periodical on-line] 29 March 2007, available <http://www.csmonitor.com/2007/0329/p04s01-woeu.html>, accessed 29 March 2007; “EU Ministers Agree to Tackle Illegal Immigration on Southern Borders,” *International Herald Tribune: Europe, Associated Press*, 5 October 2006 [periodical on-line]; available from http://www.ihf.com/articles/ap/2006/10/05/europe/EU_GEN_EU_Immigration.php; Internet; accessed 27 October 2006.

² “Zapatero No Admite las Lecciones de los Países de la UE en Material de Inmigración,” *ABC*, 7 September 2006 [periodical on-line]; available from http://www.hispanoargentinos.com/noticias/2006/septiembre/270906_ABC_es_Zapatero_Inmigracion.htm; Internet; accessed 25 October 2006.

Frattoni—believe was an invitation for North Africans to make the treacherous journey toward Southern European soil.³

The perceived inability of Southern European countries to manage their borders has important implications for a potential common EU immigration policy. In addition to the question of external border controls (which have in fact been significantly tightened since the late 1990s), the apparent toleration of immense illegal immigrant populations *within* Spanish territory is central to the European debate. Massive amnesty programs and *de facto* toleration of undocumented workers in a vast shadow economy are not confined to Spain. Southern European countries spanning the Mediterranean basin exhibit similar trends, raising the question of a North-South divide within Europe that pits the former “emigration countries” in the South against the established “immigration countries” in the Northwest where restrictive and control-oriented approaches have taken root.

Overall, the European immigration policy domain is an ongoing structural process that reflects two major dynamics, one intergovernmental and the other supranational. Interestingly, supranational measures to secure the *internal* market implied the need to secure the *external* boundaries of that market. To that end, intergovernmental cooperation elaborated and implemented “compensatory” measures to combat the feared “dark side of integration.” Given the constituent structures and processes that permeate the evolving regional policy context, the southern countries’ drastically different preferences and approaches to immigration policy raise intriguing questions.

The specific labor market structures in southern countries mean that they may prefer—if not require—foreign labor, which often comes in the form of *unskilled* labor

³ “Spain Vows to Curb Migrant Wave,” *BBC News*, 4 September 2006 [periodical on-line]; available from <http://news.bbc.co.uk/2/hi/europe/5313560.stm>; Internet; accessed 5 September 2006.

from North Africa, for example. At the same time, the integration of the Schengen Agreements into the EU legal structure at Amsterdam in 1997 and broader EU market-making objectives have formally equated southern countries' borders with European borders. It is possible that further "Europeanization" of immigration and asylum policy at the EU level may result in a sacrifice of the more *laissez faire* immigration policies of countries like Spain in order to conform to majority Europe's wishes and worries. More generally, the immigration debate in Europe highlights the tension between the increasingly institutionalized European Union and the individual member states that constitute it, especially because immigration policy and border control—to a greater extent than trade and financial flows—is considered a crucial feature of state sovereignty.⁴

Questions of Interest and Central Arguments

This thesis investigates the complex relationship between supranational institutions and domestic politics and policies by asking three questions. First, by what mechanisms does regional institutional context shape domestic public policy, especially in issue areas for which formal authority still rests with states? What is the extent of this influence? In the EU, where state governments maintain considerable authority over immigration policy implementation, to what extent does the existence of the EU explain domestic policy formation and policy coordination between member states? Second, how do states internalize these effects? What explains variation in the domestic internalization of regional routines? Third and finally, how does the extent of implementation and

⁴ James Caporaso (1996), "The European Union and Forms of State: Westphalian, Regulatory or Post-Modern?" *Journal of Common Market Studies*, 34:1, p 35.

internalization by states, in turn, affect the supranational institutional system and what does this imply for future EU immigration policy?

Regarding the first question, I argue that in highly integrated Europe, domestic actors' preferences are endogenous to the supranational and transgovernmental "EU context" in the long term. Even in non-integrated policy areas, supranational institutions have a significant indirect influence on national policy. By defining and categorizing common problems, and creating the forum within which domestic actors—e.g., bureaucrats, heads of state, business interests, labor organizations, intellectuals, human rights groups—interact transnationally and domestically, supranational institutions put implicit pressure on member states to internalize non-binding common goals. Interaction at regional and sub-systemic levels socializes the actors involved and subsequently shapes preferences as well as identities.

To address the second question (regarding internalization at the domestic level), I contend that the specific domestic factors—i.e. institutional, political, economic, historical, societal, and cultural—mediate domestic implementation and supranational pressure at a given time. Moreover, during the emergence of a new extra-national policy domain, domestic actors are principally concerned with maintaining, reasserting, or extending their power. In the short term, then, the preferences of key domestic actors (which are not equivalent to aggregated state preferences) may be substantially exogenous to supranational institutions, and indeed transgovernmental activity may take place "outside"—though not completely isolated from—the official EU system.

That being said, actors' preferences are *not* exogenous to the sub-systemic informal networks in which they operate. Therefore, in response to the final question ("feedback")

into the regional system), I posit that the socialization of actors through transgovernmental interaction puts additional pressure on state governments to cooperate with one another, ultimately leading to the possibility of what Christiansen has called “deep institutional”⁵ structural change at the EU level.

Given these three arguments, I show that Spanish immigration policy *is* a European problem only insofar as it is representative of the tension among member states over how to “Europeanize” domestic immigration policies that toy with the very foundations of both national and regional identities. This problem is especially significant under “crisis” conditions related to issues—like immigration and asylum—that have been actively linked to security rather than political economy.

Political Significance: The Immigration Policy Debate

This thesis has both practical and theoretical significance, which have normative and positive implications, respectively. In the first place, this study is connected to a pressing policy debate that affects most of the world. Immigration as a perceivable consequence of accelerated globalization has become one of the most salient political, economic, and security issues for both developed and developing countries, and different governments address the issue through varying policy outcomes. The two sides of the debate are broadly distinguished by distinct attitudes toward immigration that imply different definitions.

⁵ Thomas Christiansen, “Bringing Process Back In: The Long *Durée* of European Integration,” *Journal of European*, Vol. 21, no. 1 (1998): 99-121, p 113.

On the one hand, immigration can be defined as a threat to national security, national identity (racial/ethnic/cultural/religious), or the welfare state. The dominant trend in Western policymaking tends to follow this approach, manifested as a security-oriented focus on restricting new immigrants to developed countries through border policing and regulation of access to public services. To cite an extreme case, on October 26, 2006, faced with over 12 million illegal immigrants already within US territory, President George W. Bush signed into law the Secure Fence Act, which approved \$1.2 billion toward the construction of a 700-mile-long fence along one-third of the US-Mexico border.⁶ Similarly, in Europe the increasing presence of “foreigners” has contributed to a politicized situation where most contemporary European immigration policy is restrictive.⁷

Many extreme right-wing anti-immigration parties and politicians across Europe have been gaining support, such as Jean-Marie Le Pen’s Popular Front in France, the Northern League in Italy, the Freedom Party in Austria, the People’s Party in Switzerland, the Party of Progress in Norway, the List in the Netherlands, the British National Party, the Hellenic Front in Greece, the Popular Party in Portugal, and the German People’s Union.⁸ Popular and political support for such anti-immigration sentiment reflects a xenophobic view of immigration as a threat to national identity, exacerbated by the definition of immigration as a security matter necessarily.

⁶ “Bush OKs 700-mile Border Fence,” *CNN*, 26 October 2006 [periodical on-line]; available <http://www.cnn.com/2006/POLITICS/09/29/fence.congress.ap/index.html>; Internet; accessed 26 October 2006.

⁷ Christian Joppke, “European Immigration Policies at the Crossroads,” In Paul Heywood, *Developments in West European Politics 2* (Gordonville, VA, USA: Palgrave Macmillan, 2002): 259 – 276.

⁸ Omar G. Encarnación, “The Politics of Immigration: Why Spain is Different,” *Mediterranean Quarterly* 15, no. 4 (Fall 2004): 167-185.

The other position views immigration through such lenses as the national economy, demographics, or concerns about social inclusion and human rights. In this vein, many scholars and policymakers have asserted that healthy immigration levels can boost economic growth, and that it may be necessary to maintain economic competitiveness and the viability of the national welfare state in the face of shrinking and aging populations.⁹ In 2000, the United Nations Population Division estimated that the population of the European Union would decrease by 40 million people by 2050,¹⁰ a decline of almost 9% of the 2006 EU population.¹¹ Given this figure, the EU would need to recruit anywhere from 80 million to 701 million immigrants in the next half-century—or 1.4 million to 12.7 million immigrants per year—in order to maintain the size of the 1995 workforce or to preserve the 1995 ratio of working to retired people.¹² The most conservative estimate therefore suggests the need to recruit at least twice the amount of the 300,000 immigrants that currently enter Europe annually.¹³ In light of these economic and demographic challenges, an increasing number of studies have suggested

⁹ Laura Huntoon, “Immigration to Spain: Implications for a Unified European Immigration Policy,” *International Migration Review* 32, no. 2 (Summer 1998): 423-450; George J. Borjas, “The Economic Benefits of Immigration,” *The Journal of Economic Perspectives* 9, no. 2 (Spring 1995): 3-22; M. Dolores Collado, Iñigo Iturbe-Ormaetxe, and Guadalupe Valera, “Quantifying the Impact of Immigration on the Spanish Welfare State,” *International Tax and Public Finance* 11 (2004): 335-353; Christian Joppke, “European Policies at the Crossroads,” in Paul Heywood, *Developments in West European Politics* 2 (Gordonsville, VA, USA: Palgrave Macmillan, 2002): 259-276; Kjetil Storesletten, “Sustaining Fiscal Policy Through Immigration,” *The Journal of Political Economy* 108, no. 2 (April 2000): 300-323.

¹⁰ Joppke, “European Immigration Policies at the Crossroads,” p. 259.

¹¹ Author’s calculation, based on the CIA World Factbook data on the European Union, which estimated the EU population to be 456,953,258 in July 2006 [on-line]; available <https://www.cia.gov/cia/publications/factbook/geos/ee.html>; accessed 08 November 2006.

¹² Joppke, p. 259.

¹³ *Ibid.*

that “Fortress Europe” is unsustainable.¹⁴ The policy debate is thus complicated by the blurred distinction between security and political economy.

In some circles, the debate has also accelerated the push for a common EU immigration policy. As the Commission continues to work toward this goal, an achievement it hopes to reach by 2010,¹⁵ it is imperative to understand why different governments implement similar or dissimilar policies under similar circumstances. Why, when facing the same problem of increased illegal immigration in 2005, did the United Kingdom respond by cracking down while Spain granted an amnesty?¹⁶ Given these differences, what accounts for policy coordination among EU member states? By investigating the process through which supranational institutions influence domestic immigration policy, this thesis sheds light on these practical concerns.

Theoretical Significance: State of the Literature and Contribution

The theoretical significance of this thesis is even more interesting and compelling. Because the specifics of each theoretical approach outlined here are covered at greater length in Chapters Two and Three, the current review is brief. On the one hand,

¹⁴ UN Population Division Studies 2000-2006; M. Dolores Collado, Iñigo Iturbe-Ormaeche, and Guadalupe Valera, “Quantifying the Effects of Immigration on the Spanish Welfare State,” *International Tax and Public Finance* 11 (2004): 335-353; Christian Joppke, “European Immigration Policies at the Crossroads,” in Paul Heywood, *Developments in West European Politics* 2 (Gordonsville, VA, USA: Palgrave Macmillan, 2002), pp. 259-276.

¹⁵ “Towards a Common European Union Immigration Policy,” *European Commission* official website, *Justice and Home Affairs: Freedom Security and Justice: Immigration* July 2006 [on-line]; available http://ec.europa.eu/justice_home/fsj/immigration/fsj_immigration_intro_en.htm; Internet; accessed 07 Nov 2006.

¹⁶ Don Melvin, “EU Works for Consensus to Craft Common Immigration Policy by 2010,” *Cox News Service, The San Diego Union-Tribune* 08 February 2005 [periodical on-line]; available http://www.signonsandiego.com/uniontrib/20050208/news_1n8migrants.html; accessed 08 November 2006.

European integration presents fundamental challenges to International Relations (IR) theorists, domestic and comparative political scientists, and foreign policy scholars alike. Neorealist assumptions that international politics takes place in an anarchic system inhabited by materially self-interested states have apparently met their empirical match with the development of the EU. Liberalism is better equipped to explain cooperation through economic interdependence, but neoliberalism—like neorealism—is essentially rationalist and materialist. That is, incentives can alter behavior, but preferences remain fundamentally the same. Therefore, both mainstream IR theories—neorealism and neoliberalism—inadequately explain such rapid system transformation, albeit regional, as has occurred over the past sixty years on the historically war-prone continent.

On the other hand, the EU provides a vibrant social scientific laboratory. As a response to the theoretical challenges posed by integration, a diverse array of innovative and unique approaches has burst onto the academic scene since the 1950s, some directly in response to European integration, others as a reaction to more general disagreements with traditional IR theory. Neofunctionalism developed in the 1950s as one “grand theory” of European integration, arguing that integration in a functional domain such as economics or law inevitably leads to functional and technocratic “spillover” effects into other policy domains. Intergovernmentalism, influenced by state-centric realism, emerged as a second “grand theory” of EU integration with the contention that supranational institutions are delegated by states, therefore possessing little authority beyond serving state interests. Intergovernmentalism offers an approach to national preference formation, but fails to consider how those preferences are reflected in

supranational institutions and how, in turn, those institutions might affect state preferences.

Given the institutional density of the European continent, it is not surprising that institutionalist approaches have earned increasing attention in integration research since the 1990s. In addition to multi-level approaches that seek to explain the specifics of EU governance, EU scholarship has taken an “institutional turn.”¹⁷ The concurrent emergence of social constructivism in IR theory, with its focus on ideational factors such as interest and identity formation, has further informed the body of institutionalist literature as applied to EU studies. Chiefly, social constructivism has helped the “new” institutionalism surmount the criticism that—by defining institutions in terms of constraints—institutionalism leaves little room for exploring the mutual constitution of actors’ preferences and institutions. That actors and institutions are “mutually constitutive”—a decidedly constructivist concept—implies that institutions are both shaped by actors’ preferences and shapers of those preferences.

There is a wide consensus in institutionalist literature, and constructivist and EU studies literature in general, that the research frontiers include dialogue between different theoretical approaches, principally in bridging two gaps—first, between rationalism and constructivism; and second, between IR and comparative/domestic politics. Both of these boundaries apply to institutionalist research more broadly and therefore to the

¹⁷ Mark Aspinwall and Gerald Schneider, “Same Menu, Separate Tables: The Institutional Turn in Political Science and the Study of European Integration,” *European Journal of Political Research* 38 (2000): 1 – 36; Keith Dowding, “Institutionalist Research on the European Union: A Critical Review,” *European Union Politics* 1 (2000): 125-144; Joseph Jupille and James A. Caporaso, “Institutionalism and the European Union: Beyond International Relations and Comparative Politics,” *Annual Review of Political Science* 2 (1999): 429-444.

“deepening and widening”¹⁸ of European integration studies, especially EU governance. Jupille and Caporaso advocate research that transcends the distinctions between various institutionalisms, particularly those differences that arise from the rationalist-constructivist schism.¹⁹ Finnemore and Sikkink, moreover, emphasize the necessity for “cross-fertilization” between levels of analysis within constructivism.²⁰ Finally, Jeffrey Checkel, in a review of social constructivisms in American and European thought, identifies several areas for improvement. Among his explicitly stated suggestions are (a) improvement in domestic politics theorizing, (b) greater attention to research methods, and (c) focusing on bridge-building.²¹

These research frontiers serve as points of departure for this thesis. I address the rationalist-constructivist gap within institutionalist literature by pursuing a hybridized theoretical approach in a three-stage research design that incorporates structuration methodology, historical institutionalist assumptions, and elements of March and Olsen’s “garbage can” model to bridge sociological and historical variants of new institutionalism (discussed in detail in Chapter Two). In doing this, I am able to reconcile rationalist and constructivist approaches through a “division of labor”²² whereby constructivism

¹⁸ Markus Jachtenfuchs, “Deepening and Widening Integration Theory,” *Journal of European Public Policy* 9, No. 4 (August 2002): 650-657.

¹⁹ Joseph Jupille and James A. Caporaso, “Institutionalism and the European Union: Beyond International Relations and Comparative Politics,” *Annual Review of Political Science* 2 (1999): 429-444.

²⁰ Martha Finnemore and Kathryn Sikkink, “Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics,” *Annual Review of Political Science*, Vol. 4 (2001), pp. 391 – 416.

²¹ Jeffrey T. Checkel, “Social Constructivisms in Global and European Politics: A Review Essay,” *Review of International Studies*, Vol. 30, No. 2 (2004): 229-244.

²² Mark Aspinwall and Gerald Schneider, “Institutional Research and the European Union: Mapping the Field,” in Gerald Schneider and Mark Aspinwall, *The Rules of Integration: Institutional Approaches to*

explains long-term macro-level preference formation and rational choice (though socialized in sub-systemic networks and bounded by time) explains many short-term actions taken, given these preferences.²³ Furthermore, my approach addresses the mutually constitutive relationship between domestic political actors' preferences and supranational institutions, thereby addressing both 3rd- and 2nd-image levels of analysis and contributing marginally to the discussion between IR and domestic politics awakened by the literature on Europeanization. I apply this hybrid institutionalist approach to immigration policy—an area that continues to develop in EU governance, though most decision-making remains intergovernmental. Finally, I build upon the agent-oriented work of Jef Huysmans²⁴ and Virginie Guiraudon's "venue-shopping" model²⁵ by considering structure as well as agency and by extending analyses of the "securitization" of immigration to Southern Europe.

Research Design

Theoretical and Methodological Approach

In order to coherently evaluate the complicated and multifaceted issue of mutual constitution across policy structures and/or actors at the supranational and domestic levels, I advance a three-stage longitudinal approach held together by an eclectic

the Study of Europe, European Policy Research Unit Series (Manchester, UK and New York, NY: Manchester University Press, 2001), p. 17.

²³ Peter J. Katzenstein, Robert O. Keohane, and Stephen Krasner, "International Organization and the Study of World Politics," *International Organization* 52 (1998): 645-85.

²⁴ Jef Huysmans, "The European Union and the Securitization of Migration," *Journal of Common Market Studies* 38, No. 5 (December 2000): 751 – 777.

²⁵ Virginie Guiraudon, "The Constitution of a European Immigration Policy Domain: A Political Sociology Approach," *Journal of European Public Policy* 10, No. 2 (April 2003): 263 – 282.

theoretical framework that draws upon insights from a variety of intellectual pursuits across academic disciplines. From most general to most specific, the perspectives considered include (1) international relations and “grand theories” of European integration, (2) governance and Europeanization literature, (3) new institutionalisms, and (4) domestic and foreign policy analysis. The range of insights drawn from these perspectives are further qualified in relation to immigration literature, including immigration politics and policy analysis, as well as research explicitly tied to EU studies.

Methodologically, I exploit variations in both agency and structure by employing a version of Giddens’ “analytical bracketing” strategy.²⁶ Bracketing entails sequential reversals of causality in order to exploit variation in the study variable (SV)²⁷ of the moment by treating the effects of the other variable(s) as fixed (i.e. “bracketed”). In an ideal application of structuration theory, “bracketing” would consist of the continuous and concurrent recycling of study variables and bracketed variables. Such a scenario is impossible to investigate analytically because it implies a virtually endless process of causal obfuscation whereby no truly “independent” or “dependent” variables could be discerned. For the sake of clarity and feasibility, the three-stage process uses the more conventional “independent” (IV) and “dependent” (DV) variables to represent the

²⁶ Anthony Giddens, “Comments on the Theory of Structuration,” *Journal for the Theory of Social Behavior* 13 (1983): 75-80; Margaret Archer, “Morphogenesis versus Structuration: On Combining Structure and Action,” *The British Journal of Sociology* 33 (1982): 455-83; John B. Thompson, “The Theory of Structuration,” in David Held and John B. Thompson (eds), *Social Theory of Modern Societies: Anthony Giddens and His Critics* (Cambridge: Cambridge University press, 1989).

²⁷ According to Van Evera, a “study variable” is defined as any “variable whose causes or effects we seek to discover with our research. A project’s study variable can be an IV [independent variable], DV [dependent variable], IntV [intervening variable], or CV [condition variable],” in Stephen Van Evera, *Guide to Methods for Students of Political Science* (Ithaca, New York: Cornell University Press, 1997), p. 11.

“study” and “bracketed” variables of the moment, respectively. The IVs and DVs are numbered from 1 to 3 according to the corresponding stage.

It must be clarified that “bracketing” principally serves as a frame for conceptually guiding more specific methodological and empirical pursuits, rather than a constraining strategy to be strictly followed or taken literally. In some cases, each stage may benefit from admitting intermittent variations in its “bracketed” factors. When relevant, temporary “bracket removals” can facilitate investigations of the more specific “infra-processes” that support the broader structures explored in each stage. Therefore, the consideration of Condition Variables (CVs)²⁸ unifies the entire opus by sketching colorful nuances into the larger pictures composed in each of the three “stages”—which, for analytical reasons and the purpose of communicating abstract concepts—had been kept separate. In this sense, “brackets” are much like the borders of liberal states—at once contracting and expanding, variably wide, malleable, porous, dynamic, and ultimately, continuously *constructed* and *reconstructed* over time. Under such circumstances, the conceptual and rhetorical expectation of absolute “control” over an *idea* distinguishing “in” from “out” becomes much more complicated and nuanced in practice.

Stage 1

The first stage traces the evolution of European immigration policies since the 1970s and delineates the key features of an emergent European immigration policy domain. It explores agency in the initial processes and structures through which immigration in

²⁸ See Van Evera, *Guide to Methods for Students of Political Science*, p. 11.

northwestern Europe was framed as a “threat.” A focus on agency identifies the various actors involved, which initially included state officials (Foreign Affairs ministers, Interior ministers), police officials, transnational NGOs, and European Commission bureaucrats, and many others have proliferated over time.

Actors’ preferences and identities (IV₁) form the underpinnings of policy frames, which subsequently become engrained in regional structures (DV₁), all placed within the historical context (CV₁). Guiraudon’s shrewd application of March and Olsen’s “garbage can” model²⁹ helps explain how immigration came to be defined as a “security” issue rather than a political economy one.³⁰ These actors’ preferences are considered largely (but imperfectly) exogenous to the EU institutional system as a whole, but endogenous to the professional sub-cultures of which they are part. Placing emphasis on power differentials in competitive “infra-processes” among and across various groupings of actors helps explain why some policy frames succeeded over others.

In particular, actors closest to the state were the most likely candidates to influence policy because of access to state resources as well as both formal and informal institutional factors. In their infancy, immigration issues were dealt with through intergovernmental cooperation and unanimous decision-making procedures. Informally, each category of actors collectively constituted a distinct sub-culture subject to socialization processes unique to the group. Because some state officials began networking in secretive transgovernmental forums and sought to prevent others from

²⁹ On “garbage cans,” see James G. March and Johan P. Olsen, “Garbage Can Models of Decision Making in Organizations,” in James March and Roger Weissinger-Baylon (eds.), *Ambiguity and Command. Organizational Perspectives on Military Decision Making* (Marshfield, MA: Pitman, 1986): pp. 11-35.

³⁰ Virginie Guiraudon, “The Constitution of a European Immigration Policy Domain: A Political Sociology Approach,” *Journal of European Public Policy* 10: 2 (April 2003): 263 – 282.

doing so, domestic actors' preferences do not perfectly aggregate to unitary "state preferences." I use the term "*rival transgovernance*" to capture the overall structure born from the various overlapping and often competing constituent "infra-processes."

Ultimately, this stage functions to define the contours of European level policymaking and politics, including a commitment to "control" and restriction, policy failures and policy "gaps," the externalization of control, and a European level agenda to fight the "root causes" *illegal* immigration. By identifying the actors involved, the structures produced, and the major theoretical and policy themes that hold the system together, this stage ultimately serves to establish the comparative and contextual reference necessary for analysis of the domestic political variable in Stage 2.

Stage 2

The second reverses causality to analyze the effect of the supranational institutional structure (IV₂) on actors and structures at the domestic level (DV₂), within the context of domestic factors such as politics, history, culture, economics, identity, etc. (CV₂). The evolution of immigration policies in Spain since the 1980s serves as the domestic politics variable. Grounding the analysis in the brief relevant historical context, this stage traces the regional structures and themes unveiled in Stage 1 to the Spanish case, establishing clear trends towards increasing restriction, an emphasis on "control," and the externalization of control (discussed in greater detail in stage 3). A systematic analysis of Spanish historical, political, economic, social, cultural, institutional, ideological, and ideational peculiarities suggests that domestic factors would lead to strong pro-migrant forces in the Spanish state and society. This suggests that domestic factors cannot

explain the restrictive and control-oriented policies implemented by the Spanish government.

The analysis therefore turns to the European level to uncover the sources of the Spanish government's increasingly restrictive policy choices. Having previously identified policy changes, I use process tracing³¹ to trace those changes to developments at the domestic level and the EU level in order to determine the process by which EU institutions have influenced national immigration policy formation. To achieve this, I examine national legislation, national and international news sources, interviews with prominent actors at both the Spanish and European levels, speeches, press releases, and various secondary sources published by scholars, government agencies, and international organizations.

At the domestic level, I look at public opinion, politicians' ideological predispositions, statements by governing élites and bureaucrats, partisan politics, considerations about the national economy, national security, national identity, etc. At the EU level, I examine formal and informal coordination between governments, policy developments initiated from other member states within or outside of EU level institutions, etc. By analyzing the process by which formal and informal EU institutions influenced the domestic ideational context for policymaking, and tracing that process to policy preferences and policy outcomes, I am able to induce how supranational institutions affect domestic immigration politics in Spain. The analysis of "external" factors in the broader regional structural configuration (independent variable₂) helps

³¹ Van Evera, *Guide to Methods for Students of Political Science*, p 64.

explain the dual nature of Spanish immigration policy characterized by conflicting domestic and regional sources of preferences and identities.

Stage 3

The third and final stage reverses the overarching causal logic a final time in order to evaluate the “feedback” effect of transformed domestic agency, structures, and processes in Spain (IV₃) on regional policy structures (DV₃), again conditioned by domestic favors (CV₃). This stage solidifies the “mutual constitution” of domestic level and the supranational system beyond the 1st stage overview and the 2nd stage “top-down” analysis. In order to qualify such “feedback,” news sources, interviews, domestic and EU official documents and legislation, and myriad secondary sources provide evidence of how domestic actors’ preferences, shaped by supranational institutions, help redefine the boundaries of European immigration policy structures, the potential boundaries of EU foreign policy, and possibly the very boundaries (political, economic, cultural, identity, geographical, etc.) of “Europe.” The likelihood and form of such redefinition reflects actors’ power, conceptualized as the combination of its brute and social forms. Social power, in turn, may be construed as bargaining power, persuasion, leadership, and policy entrepreneurship, all of which affect cooperation by defining the boundaries of “logical” arguments and by drawing on normative appeal. A summary of these three stages is provided in Table 1.1 below.

Table 1.1 Summary of the Three-Stage Research Design

Stage	(1)	(2)	(3)
Purpose	Establish agency, structural outputs, policy contours and themes	Evaluate effects of “EU Context” on Spanish policymaking	Explore “feedback,” mutual constitution
Independent Var. (IV) ↓	Actors’ preferences in European “core” and related “infra-processes”	Regional structures	Transformed actors’ preferences/identities and domestic policy structures
Dependent Var. (DV)	Regional structures, policy themes	Actors’ preferences/ identities and domestic policy structures	Regional structures
Condition Var. (CV)	Historical context, professional subcultures	Domestic factors (e.g., politics, history, culture, etc.)	Domestic politics (e.g., politics, history, culture, etc.)
Theoretical Framework	“rival transgovernance”	New institutionalism	Systemic constructivism, “geographical spillover”
Spatial Components	Multidimensional, “across-within”	“top-down”	“bottom-up” and “in-out”
Temporal Dimensions	Longitudinal, post-WWII	1970s – 2000s	Post-2000

Parameters of the Study and Case Selection

The Spanish case is particularly relevant to the study of EU immigration governance for several reasons. Spain entered the European Community (EC) at the precise time that institutions of immigration governance began to take shape. EC membership and regional salience of immigration also coincided with southern European countries’ switch from countries of emigration to countries of immigration, making the development of Spanish immigration policy an illustrative case for exploration of identity and preference formation. Moreover, the geographical position at the continent’s external frontier makes Spain—along with its colonial vestiges in the Canary Islands, Ceuta, and Melilla—a logical destination for prospective immigrants attempting to reach European soil. Finally, Spain’s “liberal” immigration policy since joining the EC in 1986 is exceptional

when compared to the prevailing restrictive policies geared toward “stemming” unwanted immigration to the rest of Western Europe. In sum, these characteristics of Spanish immigration policy raise important questions about the implications for future EU immigration policy.

That Spain is an exception may concern some readers. First, critics may worry that while in the past year or so Spain has experienced symptoms of a general problem with illegal immigration from North Africa to southern Europe, Spain still has lower levels of immigration and low anti-immigration sentiment in popular opinion compared to other European countries. Second, the reliance on a vast informal economy in Spain’s developmental model creates a desire for *unskilled* immigrants, versus many northern European countries that hope to attract *skilled* workers from abroad, if at all.

However, exceptional, or “outlier” cases, are critical to theory building.³² In fact, the Spanish case is interesting precisely *because* Spain is “new” to immigration and to “Europe.” Moreover, the peculiarities of the Spanish case are more powerful than weak when applied to the study at hand. That immigration is good for the Spanish economy and that there is as of yet no strong anti-immigration movement simply helps control for two important reasons for a restrictive immigration policy. This allows for greater control in my analysis of the relationship between the EU context and immigration policy.

Additionally, a single domestic case study hardly fully addresses the bridge between IR and domestic/comparative politics. That being said, Markus Jachtenfuchs has pointed out that case studies are not only a justifiable political scientific method; they also “are of

³² Van Evera, *Guide to Methods for Students of Political Science*, pp 22 – 23.

particular importance in the political system of the European Union where we still lack solid microanalyses about how policy-making in the European Union works concretely.”³³ Also, because I utilize “process tracing” to test for the link between variance in immigration policy and the EU context, I am able to use the background conditions of Spanish society and policy to control for omitted variable bias.³⁴

The greatest limitation of this study, then, is one of resources. Given the limited time period and financial constraints, conducting field research is not an option. This means a heavy reliance on digested information, though primary sources—such as interviews, minutes of meetings, diaries and memoirs, and official publications—are used whenever and wherever possible because of their centrality to the research design. Future research could improve upon the findings of this study by deeper investigation of the ideational factors at work, introducing more domestic variables and case studies, and by applying a cross-regional comparative approach.

Collection of Evidence

Data from surveys and polls, government publications, Commission publications, Treaty texts, news sources, interviews, and myriad other sources written both in English and Spanish provide evidence throughout the three stages.³⁵ The United Nations, the OECD, the Instituto Nacional de Estadísticos (INE), the Centro de Investigaciones Sociales (CIS), and other Interior Ministry databases provide demographic, economic,

³³ Markus Jachtenfuchs, “The Governance Approach to European Integration,” *Journal of Common Market Studies*, Vol. 39, No. 2 (June 2001): 245-64, p 258.

³⁴ Van Evera, pp 51 – 52.

³⁵ Unless explicitly stated otherwise, translations to English from sources originally written in Spanish are the work of this author.

and public opinion data. Immigration-related publications by the Spanish government and the European Commission reveal the ideational factors underlying policy structures and broad objectives, which are supported and nuanced by interviews and press releases involving prominent actors within the Spanish state and society, the European Commission and other EU level bodies, NGOs, non-state border control agencies, and other relevant actors. Furthermore, a wide variety of reputable international and Spanish news sources on the topic of immigration and immigration policy provide additional empirical support, including *CNN*, *BBC*, *El País*, *El Mundo*, *ABC*, and *La Vanguardia*.

These media have been chosen because of their reliability and regional distribution within Spain. *El País*—the most widely circulated Spanish newspaper—is based out of Madrid and offers a mainstream, centered news source from the national level, whereas *ABC* presents a conservative viewpoint. *El Mundo* is the second most widely circulated Spanish newspaper and is known for its critical investigations, including investigations into government policy. *La Vanguardia* introduces the regional dimension, representing a catalanist perspective. Finally, the arguments draw contextual support from a vast array of secondary sources, including recent studies on the Spanish economy, public opinion, immigration policy, foreign policy, EU integration, EU governance (particularly regarding immigration), and relevant statistics contained therein.

Chapter Summary

The following chapters include one macro-theoretical chapter on EU studies and international relations, one theoretical and descriptive chapter on immigration in Europe, two empirical chapters on the Spanish case within the European context, and a

conclusion. Chapter Two, “Integration, Europeanization, and Immigration: Locating Agency and Structure” reviews the state of IR and EU Studies literature, and links immigration to the broader discussion, with a particular focus on the agent-structure problem in the social sciences. Chapter Three, “Emergent EU Immigration Policy Structures: The Sorcerer’s Syllabus” is both theoretical and descriptive, and clarifies the current state of EU immigration and asylum policy by drawing upon previous research. This chapter also pursues the first stage of the research design, scouring “rival transgovernance” for agency, resultant structures, and key themes of the EU immigration governance system.

The second stage of the research design aligns with Chapter Four, “Sorcery 101: Fortifying Europe’s ‘Soft Underbelly’: The Limits of Europeanization in Spain.” It introduces the domestic politics variables and examines the development of Spanish immigration policy since the 1980s within a “top-down” framework used to trace in the influence of regional structures/themes on Spanish policy-making. Chapter Five, “The Sorcerer’s Apprentice?” completes the third stage of the research design, examining the actual and potential “feedback” effects of the Spanish case into regional institutional dynamics. This chapter portrays a transformed Spanish state that has become a prominent regional leader, figuring prominently in Euro-African relations, the fight against the “root causes” of illegal immigration, and the introduction of soliciting policies intended to attract legal forms of immigration much needed in Europe’s near future. This discussion introduces some interesting considerations of potential “geographical spillover” as immigration policy structures begin to meld with foreign policy objectives in the twenty-first century.

Chapter Six synthesizes the central findings, places them within the academic and political debates, and makes suggestions for future research. Concluding thoughts include normative questions about the efficacy of “control” policies as a long-term solution to “unwanted” immigration, such as illegal immigration, and a discussion of the possibilities for constitutionalization of immigration and asylum policy at the EU level, Spain’s role in this process, and how this policy might—and *should*—be formulated.

CHAPTER TWO

INTEGRATION, EUROPEANIZATION, AND IMMIGRATION: LOCATING AGENCY AND STRUCTURE(S)

What can the literature on European integration and Europeanization tell us about immigration politics? Conversely, what does the politicization of immigration imply for the theories and practices of integration and Europeanization? That immigration politics in the EU are inextricably linked to the processes of regional integration and globalization more generally has become widely accepted since the 1980s.¹ Maarten Vink has gone further in making the case that the “study of European immigration politics is developing more and more into a distinct field of study in political science.”² Indeed, the politicization of immigration and asylum is deeply intertwined with the fundamental struggle among visions of “European” identities and has considerable implications for the future of the post-War European project.

Therefore, in order to successfully “theorize” immigration politics in the EU, this chapter widens the lens to discuss the relationship between immigration literature and integration theory, “Europeanization,” and “governance.” Central themes in the analysis

¹ Gallya Lahav, *Immigration and Politics in the New Europe* (Cambridge, UK: Cambridge University Press, 2004), p. 3.

² Maarten Vink, “European Immigration Politics,” *West European Studies*, Vol. 25, No. 3 (2002): 203-210, p. 209.

include the links between (1) international relations and EU studies, (2) integration theory and Europeanization literature, and (3) agency and structure. Ultimately, systematic consideration of these relationships promises more theoretically informed research on the emergent European immigration regime.

The analysis is also guided by two broad sources of division in EU studies literature: (1) the levels-of-analysis problem and (2) the rationalist-constructivist divide. The first schism reflects a general disagreement between realist and liberal IR theorists about the centrality of states, and also forms the core of the debate between supranational and intergovernmental accounts of European integration. The second rift stems from the emergence of social constructivism in IR, which rejects the rationalist and materialist assumptions of the neoliberal and neorealist mainstream.

Multi-level governance (MLG) approaches to the EU polity have enjoyed some success in addressing the first gap, but governance approaches are often descriptive rather than theoretically coherent. The new institutionalisms and constructivism give substance to MLG, helping clarify the effects of the agency of various actors and institutional structures. Moreover, although governance literature opposes the “grand theories” on scope conditions, many governance scholars nonetheless share rationalist assumptions. Therefore, to address the second gap, I trace the established and potential applications of constructivism and historical/sociological institutionalism to policy network analysis, “Europeanization,” and “governance.”

I argue that shifting attention away from the state sovereignty debate has benefited EU studies by tackling more specific questions about regional and domestic policymaking in Europe. At the same time, knowledge of immigration governance can

be improved by honing the relative strengths of both historical and sociological institutionalism, by recalling and reinventing various concepts of power relations, and by more rigorous treatment of the dynamic interaction between sub-systemic and systemic processes and institutions as a two-way street. While agent-oriented approaches and new institutionalist analyses have offered important contributions to the study of immigration policy, a discussion between the two is lacking or incomplete. In short, I argue that research on European immigration policy can be better served by an interdisciplinary and theoretically diligent approach that takes into account *both* agency and structure over time and at multiple locations.

The ensuing review ultimately justifies the eclectic approach taken in this thesis, which draws on the assumptions of a variety of academic movements within the social sciences in different temporal and spatial stages. At the “sub-systemic” level, multi-level power competition and historical/sociological institutionalist assumptions (together culminating in what I term “rival transgovernance”) provide the organizing framework for understanding the underpinnings of subsequent developments in European immigration policy.³ At the “macro-” or “systemic” level, this approach advances an altered systemic constructivist framework that integrates both the structure(s) of agency and the agency of structure(s) into a dynamic image of the hybrid supranational-intergovernmental processes that make up the emergent EU immigration policy structures. Empirically supported in Chapters Three, Four, and Five, this approach reveals interesting conclusions about the impact of separate and overlapping “sub-

³ The conception of “underpinnings” used throughout this thesis draws inspiration from that advanced by Ulrich Krotz, “Parapublic Underpinnings of International Relations: The Franco-German Construction of Europeanization of a Particular Kind,” *European Journal of International Relations*, Vol. 13, No. 3 (September 2007), forthcoming.

Europe(s)” and/or “extra-Europe(s)” in a policy area that is still (possibly) “Europeanizing.” These conclusions inform analyses of current developments and provide insights about the possible futures of immigration policy “Europeanization.”

The Limitations of the Classical Debate: International Relations and “Grand Theories” of Integration

The initial questions driving the theory and practice of early integration after WWII were deeply rooted in the idiom of conventional IR—namely, a reexamination of the nature of conflict and cooperation. Bemoaning realist accounts of the prevalence of conflict, European leaders and civil servants such as Churchill, Monnet, and Schuman advocated a liberal project to ensure the aversion of war by creating solidarity—first between France and Germany—through economic interdependence. Similarly, integration theorist Karl Deutsch began in 1957 with the assumption that “war is now so dangerous that mankind must eliminate it,”⁴ and defined integration as the attainment of a “security community.” According to Deutsch, the chief mechanism for successful integration was dense communication between members, leading to a “sense of community” and “we-feeling.”⁵

Deutsch’s innovative “transactionalist” approach to integration theory has inspired significant contributions to EU studies since the 1980s.⁶ Moreover, many of the anti-

⁴ Karl Deutsch et al., Political Community and the North Atlantic Area, reprinted in Brent F. Nelsen and Alexander Stubb (eds.), *The European Union: Readings on the Theory and Practice of European Integration*, 3rd ed (Boulder, CO and London, UK: Lynne Rienner Publishers, 2003), pp. 121-143, p. 122. Stanley Hoffmann, the champion of intergovernmentalism, shared the same sentiment. See Stanley Hoffmann, “Obstinate or Obsolete?” reprinted in Nelsen and Stubb, pp. 163-177, p. 167.

⁵ Deutsch et al., p. 129.

⁶ For example, see Alec Stone Sweet and Wayne Sandholtz, “Integration, Supranational Governance, and the Institutionalization of the European Polity,” in Wayne Sandholtz and Alec Stone Sweet (eds.),

realist elements of his work are also evident in neofunctionalism, which initially eclipsed Deutsch's influence. Of the early theories specifically *about* post-War Europe, Ernst Haas and Stanley Hoffmann provided the seminal texts⁷ on what would later be cemented as the dominant “grand theories” of European integration: neofunctionalism and intergovernmentalism. The fundamental disagreement between these two camps echoes the debate within IR about the future of the nation-state. *Neofunctionalists*⁸ draw assumptions from *liberalism*⁹ and stress the importance of supranational institutions and subnational interest groups, while *intergovernmentalists* take a state-centered view of integration inspired by *neorealism*.¹⁰ Therefore, neofunctionalists expect alliances

European Integration and Supranational Governance (Oxford: Oxford University Press, 1998), pp. 1-25. Reprinted in Nelsen and Stubb, pp. 215 – 238.

⁷ Ernst Haas, *The Uniting of Europe: Political, Social, and Economic Forces, 1950-1957* (Stanford University Press, 1958, 1968); Stanley Hoffman, “Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe,” *Daedalus*, Journal of the American Academy of Arts and Sciences, from the issue entitled “Tradition and Change,” vol. 95, no. 3 (Summer 1966).

⁸ See Ernst Haas, *Beyond the Nation State: Functionalism and International Organization* (Stanford, CA: Stanford University Press, 1964); Leon N. Lindberg and Stuart A. Scheingold, *Europe's Would-Be Polity: Patterns of Change in the European Community* (Englewood Cliffs, NJ: Prentice Hall, 1970); M. Holland, *European Community Integration* (London, Pinter, 1993); P. Schmitter, “Examining the Present Euro-Polity With the Help of Past Theories,” in G. Marks, F. Scharpf, P. Schmitter, and W. Streeck (eds), *Governance in the European Union* (London: Sage, 1996), pp. 1-14; D. Coombes, *Politics and Bureaucracy in the European Community: A Portrait of the European Commission* (London: George Allen and Unwin, 1970).

⁹ Liberalism is an extremely fragmented body of literature. For commercial liberalism, republican liberalism, and domestic groups and society liberalism, see Andrew Moravcsik, “Taking Preferences Seriously: A Liberal Theory of International Politics,” *International Organization*, Vol. 51, No. 4 (Autumn 1997): 513-553; Also on republican/democratic peace theory, see Michael W. Doyle, “Three Pillars of the Liberal Peace,” *American Political Science Review*, Vol. 99, No. 3 (2005): 463-566; On transnationalism, see Thomas Risse-Kappen, ed. *Bringing Transnational Relations Back In: Non-State Actors, Domestic Structures and International Institutions* (New York, NY: Cambridge University Press, 1995); On globalization, see Michael Zurn, “From Interdependence to Globalization,” in Walter Carlsnaes, Thomas Risse and Beth A. Simmons, eds., *Handbook of International Relations* (London, UK: Sage, 2002).

¹⁰ Political realism is also not a unified body of literature. For “classical” realism, see E.H. Carr, *The Twenty Years' Crisis, 1919-1939: An Introduction to the Study of International Relations* Second Edition (London: Macmillan, 1946), and Hans Morgenthau, *Politics Among Nations: The Struggle for Power and Peace* Fifth Revised Edition (New York: Knopf, 1978 [1945]); for neorealism, see Kenneth Waltz, *Theory of International Politics* (New York, NY: McGraw-Hill, 1979); for neoclassical realism, offensive realism, and defensive realism, see Gideon Rose, “Neoclassical Realism and Theories of Foreign Policy,” *World*

between NGOs and the Commission to result in “liberal” immigration policy outcomes, while intergovernmentalists expect self-interested and self-preserving states to produce “restrictive” ones.¹¹ In agency-structure terms, intergovernmentalism privileges the agency of aggregated member states in the integrative process. By contrast, neofunctionalism emphasizes the sequential and structural dynamics of formal institutions at the EU level.

Supranationalism (Neofunctionalism)

Neofunctionalism emphasizes the technical skills of a supranational bureaucracy (the Commission) and the transnational mobilization of interest groups as conducive to “spill over,” which drives integration.¹² As interest groups gradually begin to associate functional (e.g., economic) needs with the supranational level, the argument goes, European integration “spills over” into the political and social realms.¹³ The influence of liberalism—especially commercial and interdependence liberalism—in neofunctionalism is strong. Actors are generally self-interested and rational, and international

Politics, Vol. 51, No. 1 (October 1998): 144-172; for “identity” realism and other variants, see Alastair Iain Johnston, “Realism(s) and Chinese Security Policy in the Post-Cold War Period,” in Ethan B. Kapstein and Michael Mastaduno, eds., *Unipolar Politics: Realism and State Strategies After the Cold War* (New York, NY: Columbia University Press, 1999): 261-318.

¹¹ Gallya Lahav, *Immigration and Politics in the New Europe* (Cambridge, UK: Cambridge University Press, 2004), p. 9.

¹² Ernst Haas, *The Uniting of Europe*, preface reprinted in Brent F. Nelsen and Alexander Stubb (eds.), *The European Union: Readings on the Theory and Practice of European Integration*, 3rd ed (Boulder, CO and London, UK: Lynne Rienner Publishers, 2003), pp. 145-149, pp. 148-149.

¹³ D. Coombes, *Politics and Bureaucracy in the European Community: A Portrait of the European Commission* (London: George Allen and Unwin, 1970); G. Edwards and D. Spence, *The European Commission* (London: Longman, 1994); G. Ross, *Jacques Delors and European Integration* (Cambridge: Cambridge University Press, 1995); C. Grant, *Delors: Inside the House that Jacques Built* (London: Brealey, 1995).

organizations facilitate cooperation and absolute gains. At the same time, some neofunctionalist assumptions foreshadowed constructivism.¹⁴ For example, Haas shows an interest in “shifting loyalties” and “value sharing”¹⁵ similar to Deutsch’s concern with “we-feeling.” Moreover, he explicitly states that mutual constitution is a central assumption of his analysis: “‘integration’ is a two-way process in which the central institutions affect and are affected by the subject groups.”¹⁶

Although Haas and his disciples offered a unique and monumental theoretical approach to the study of European integration, neofunctionalism has been heavily discredited as a result of several limitations. First, neofunctionalism displays a strong normative concern with increasing integration¹⁷ driven by somewhat vague mechanisms. Second, neofunctionalists assumed that nation-states would eventually erode, giving way to some broader supranational entity.¹⁸ The tendency to overestimate the willingness of states to simply hand over elements of national sovereignty is a well-understood weakness of neofunctionalism. Third, and related to the first two, the portrayal of spillover as unidirectional and perhaps inevitable suffered from repeated empirical setbacks, beginning as early as 1954 when France rejected a proposal for an integrated common European Defence Community.

¹⁴ See the special issue of the *Journal of European Public Policy*, Vol. 6, No. 4 (1999) on constructivism and European integration.

¹⁵ Haas, reprinted in Nelsen and Stubb, p 147.

¹⁶ Ibid.

¹⁷ James A. Caporaso, “Regional Integration Theory: Understanding Our Past and Anticipating Our Future,” *Journal of European Public Policy* 5 (1998): 1-16, pp. 6-7.

¹⁸ Haas, reprinted in Nelsen and Stubb, p 148.

In the 1960s and 1970s, history proved particularly pernicious to neofunctionalist assumptions. Most notably, the 1965 “empty chair” crisis thwarted Commission president Walter Hallstein’s proposals to increase supranational autonomy when de Gaulle boycotted the Council of Ministers and withdrew French representatives from the Community and European Parliament in protest. The 1966 Luxembourg Compromise put an end to the crisis by reinstating unanimity for decisions affecting “a very important national interest,”¹⁹ giving member states a *de facto* national veto on Community decisions. The effects of the “empty chair” crisis were profound. The return to unanimity after Luxembourg—which was never formally recognized by the Commission or the ECJ—directly contradicted the provisions of the 1957 Treaty of Rome, which had mandated a transition to QMV on matters pertaining to the Common Market after a period of at most six years.²⁰ Although the national veto was rarely formally utilized, the Commission’s fear of its invocation led to the failure of initial efforts toward monetary integration in the early 1970s and integration effectively stalled for two decades.

Applied to EU immigration politics, neofunctionalist explanations have at best enjoyed partial success. As part of the imperatives of the common market, neofunctionalists would argue the European commitment to free movement would inevitably lead to spill over into immigration policy cooperation. In fact, some issue linkage did take place. Prior to the 1992 Treaty on European Union (TEU), the discussion among the Schengen founders and within the *Ad Hoc* Group on Migration

¹⁹ “Luxembourg Compromise,” *A Concise Encyclopedia of the European Union*, Euro Know Online, available <http://www.euro-know.org/dictionary/1.html>, accessed 17 March 2007.

²⁰ The Treaty of Rome, Part One, Article 8, Item 3, p. 5 of 80, *Eurotreaties* Online, available <http://www.eurotreaties.com/eurotexts.html#rometreaty>, accessed 16 March 2007.

emphasized the need for cooperation in external border management as compensation for internal free movement.²¹ However, the “logical” connection between internal free movement and external restriction within these intergovernmental forums reflected neither neofunctionalist mechanisms (group-driven and technocratic) nor expected outcomes (liberal immigration policies).

Spill over did not take place as an unforeseen consequence of previous integration. Guiraudon points out the failure of neofunctionalism to account for the timing of cooperation: “Co-operation on migration and asylum...did not stem from the past application of the free movement of labour provisions but rather from the concomitant *future* planning of the single market.”²² Moreover, the persistent decentralism of cooperation, the limited role of supranational institutions, and constant examples of member-state resistance to integration in immigration and asylum policy hurt the neofunctionalist case. For example, during negotiations in 2003 on a draft EU constitution Germany opposed majority voting on immigration issues, thereby blocking plans for a common immigration policy.²³ Such instances bolster the intergovernmentalist critique that the level and pace of (dis)integration is dependent on the will of powerful states.

²¹ Virginie Guiraudon, “The Constitution of a European Immigration Policy Domain: A Political Sociology Approach,” *Journal of European Public Policy* 10: 2 (April 2003): 263 – 282, p. 264.

²² Virginie Guiraudon, “European Integration and Migration Policy: Vertical Policy-making as Venue Shopping,” *Journal of Common Market Studies*, Vol. 38, No. 2 (June 2000): 251-271, pp. 254-255, emphasis in original.

²³ Carola Schlagheck, “Germany Topples EU Immigration Policy,” *F.A.Z. Weekly*, 11 July 2003, English translation on *YaleGlobal Online*, Internet, available <http://yaleglobal.yale.edu/display.article?id=2094>, accessed 12 Mar 2007.

“Rescuing the Nation-State”: The Intergovernmentalist Critique

Intergovernmentalism emerged from Stanley Hoffmann’s reassertion of the power of the nation-state²⁴ following the “empty chair” ordeal, generating an animated debate in the 1960s and 70s and again in the early 1990s. Heavily influenced by state-centric *political realism*, intergovernmentalists assume that integration necessarily implies a loss of state power and therefore see little or no scope for supranational authority because EU institutions exist solely in their capacity to serve state interests.²⁵ Some intergovernmentalist claims have gone so far as to say that integration has “rescued”²⁶ and even strengthened nation-states by adapting them to modern circumstances.²⁷

To be fair, liberal intergovernmentalists have a less rigid view of the state than neorealists. The concession that institutions and domestic politics *do* matter allows modern intergovernmentalists to explain the agency of states. As Moravcsik puts it, “EC politics is the continuation of domestic politics by other means.”²⁸ Therefore, liberal intergovernmentalists believe that “features of domestic politics have regular, predictable

²⁴ Stanley Hoffmann, “Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe,” reprinted in Nelsen and Stubb, *The European Union: Readings on the Theory and Practice of European Integration*, 3rd ed (Boulder, CO and London, UK: Lynne Rienner Publishers, 2003), pp. 163-177.

²⁵ Alan Milward, *The European Rescue of the Nation State* (London: Routledge, 1992); Stanley Hoffman, “Reflections on the Nation State in Western Europe Today,” *Journal of Common Market Studies* 21:1 (1982), pp. 21-38; Andrew Moravcsik, “Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach,” *Journal of Common Market Studies*, Vol. 31, No. 4 (1993): 473-524.

²⁶ Alan Milward, *The European Rescue of the Nation State* (London: Routledge, 1992).

²⁷ Stanley Hoffman, “Reflections on the Nation State in Western Europe Today,” *Journal of Common Market Studies* 21:1 (1982), pp. 21-38.

²⁸ Andrew Moravcsik, “Negotiating the Single European Act,” in Robert Keohane and Stanley Hoffmann (eds), *The New European Community: Decision-Making and Institutional Change*, (Boulder, CO: Westview Press, 1991): 41-84, p. 47.

and widespread effect.”²⁹ In this sense, intergovernmentalism offers one model of preference formation and immigration policy cooperation. Because states pursue policies at the supranational level that are consistent with their domestic institutions, cooperation becomes more likely if many powerful states develop similar aggregated preferences in response to similar problems.

Applied to immigration policy cooperation in the EU, consider intergovernmental explanations of (1) formation and convergence of state preferences (the independent variable), and (2) the outcomes of “grand bargains” (the dependent variable). First, the realist influence leads intergovernmentalists to expect restrictive preferences motivated by national security concerns and/or policies that favor skilled immigrants with high levels of human and/or physical capital, particularly when the national economy is performing well. Empirical evidence—for example, widespread restrictive policies in western European countries and special “soliciting” policies such as the 2000 ‘green card’ program in Germany—appears to vindicate such realist explanations. Similarly, a liberal intergovernmentalist would expect different countries to adopt different policies based on diverse economic, political, and historical experiences. In this view, Spain has more relaxed policies toward unskilled immigrants because the Spanish developmental model relies on the tertiary sector and a vast shadow economy.

Second, consider the 1997 “grand bargain” at Amsterdam, one of Moravcsik’s dependent variables. The 1992 Maastricht Treaty—formally the Treaty on European Union (TEU)—had grouped immigration and asylum in the EU’s intergovernmental “third pillar” on Justice and Home Affairs (JHA) alongside cooperation in law

²⁹ D. Lumsdaine, *Moral Vision in International Politics: The Foreign Aid Regime, 1949-89* (Princeton, NJ: Princeton University Press, 1993), p. 302.

enforcement and criminal judicial matters. In amending the TEU, the Amsterdam Treaty declared the transfer of immigration and asylum JHA to the integrated community “first pillar” within five years. This transfer implied supranational competence for immigration legislation as it related to the free movement of EU citizens and (supposedly) “third country nationals” (TCNs) across internal borders.³⁰

While clearly portraying a move towards supranationalization, it must be acknowledged that the outcome at Amsterdam also reflected some intergovernmentalist expectations. The Schengen *acquis* was incorporated into the EU legal structure, but with a strong intergovernmental flavor.³¹ Moreover, despite the announced transfer of immigration to the community pillar, a “lowest common denominator”³² security focus remained. Article 1 of the Amsterdam Treaty states as a central objective the maintenance of “an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.”³³ Furthermore, states continue to interpret and implement immigration policy according to different national contexts.³⁴

Still, to explain the clear supranational goals of Amsterdam, intergovernmentalists would argue that national interests converged in the 1990s because substantial waves of

³⁰ “The Treaty of Amsterdam: Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts,” Amsterdam, 2 October 1997, p. 27 of 81, Online, Internet, available <http://www.eurotreaties.com/amsterdamtreaty.pdf>, accessed 16 March 2007.

³¹ Andrew Geddes, *Immigration and European Integration: Towards Fortress Europe?* European Policy Research Unit Series (Manchester, UK and New York, NY: Manchester University Press, 2000), p 81.

³² Andrew Moravcsik, *The Choice For Europe: Social Purpose and State Power from Rome to Maastricht* (Ithaca, NY: Cornell University Press, 1998).

³³ “The Treaty of Amsterdam,” p. 5.

³⁴ Lahav, *Immigration and Politics in the New Europe*, p. 5.

asylum-seekers and illegal immigrants—combined with growing unemployment—triggered responses from domestic publics. When aggregated to form state preferences, these responses represented a common problem for Western European countries. Therefore, according to intergovernmentalist logic, rational member states utilized the EU framework in order to reduce transaction costs and increase bargaining efficacy.

However, the specific processes preceding Amsterdam did not follow from intergovernmental assumptions. First, as mentioned above, immigration and asylum cooperation became a salient issue among European elites in the late 1970s and early 1980s—*before* the common “problems” were empirically evident.³⁵ Second, the “solutions” to these perceived problems were not devised by state actors representing aggregated national interests. Instead, immigration and asylum were defined as “new security” issues in the first half of the 1980s by police and criminal justice bureaucrats networking in supranational and transnational “clubs” aimed at combating terrorism and drug trafficking, including the Club of Bern, the STAR group, TREVI, and the Police Working Group on Terrorism.³⁶ Within the context of such forums, security officials gained authority in the immigration domain, and the link between immigration and other external “threats” preconditioned the discourse of Schengen, the Single European Act (SEA), and Maastricht.

³⁵ Lahav, p. 53.

³⁶ Virginie Guiraudon, “European Integration and Migration Policy: Vertical Policy-making as Venue Shopping,” *Journal of Common Market Studies*, Vol. 38, No. 2 (June 2000): 251-271; Virginie Guiraudon, “The Constitution of a European Immigration Policy Domain: A Political Sociology Approach,” *Journal of European Public Policy*, Vol. 10, No. 2 (April 2003): 263-282; Jef Huysmans, “The European Union and the Securitization of Migration,” *Journal of Common Market Studies*, Vol. 38, No. 5 (December 2000): 751-777; See also Gallya Lahav and Virginie Guiraudon, “Actors and Venues in Immigration Control: Closing the Gap between Political Demands and Policy Outcomes,” *West European Politics*, Vol. 29, No. 2 (March 2006): 201-223.

Intergovernmentalist analyses, then, miss the intricacies of *initial* preference formation and the reasons for convergence; the sole focus on “grand bargains” is insufficient. Overall, intergovernmentalist approaches suffer from a zero-sum mentality. First, Hoffmann’s classic distinction between the “logic of integration” and the “logic of diversity”³⁷ need not be mutually exclusive; integration is not necessarily a homogenizing force. In fact, Deutsch seemed to prefer “pluralistic” integrated security communities to “amalgamated” ones because integration was more easily achieved and perhaps more stable in the long run if member states retained independent identities.³⁸ Furthermore, multi-level governance approaches (discussed below) suggest that the effects of integration may actually *increase* the diversity of actors by creating more avenues for political and social interaction. In turn, the diversity of actors in the system also shapes integration and immigration policy through the creation of multiple decision-making “venues.”³⁹

Second, “high” (security and the use of force) and “low” (economics, human rights, and social policy) politics need not inhabit two remote islands as intergovernmentalists assume. Rather, it is more useful to place these categories along a continuum with dense connections between the poles. What matters is the *salience* of a given issue in elite or public opinion, which varies widely with time and space and does not always reflect the

³⁷ Stanley Hoffmann, “Obstinate or Obsolete?” reprinted in Nelsen and Stubb, p 170.

³⁸ Karl Deutsch et al., *Political Community and the North Atlantic Area*, reprinted in Nelsen and Stubb, *The European Union: Readings on the Theory and Practice of European Integration*, 3rd ed (Boulder, CO and London, UK: Lynne Rienner Publishers, 2003), pp. 121-143.

³⁹ Gallya Lahav and Virginie Guiraudon, “Actors and Venues in Immigration Control: Closing the Gap between Political Demands and Policy Outcomes,” *West European Politics*, Vol. 29, No. 2 (March 2006): 201-223; Virginie Guiraudon, “European Integration and Migration Policy: Vertical Policy-making as Venue Shopping,” *Journal of Common Market Studies*, Vol. 38, No. 2 (June 2000): 251-271.

“high”/“low” distinction. A strict dichotomy overlooks how borderline policy areas come to be associated with one category or the other, and how this construction both reflects and reinforces the interests and identities of actors with regard to that issue. Immigration politics fundamentally revolves around the identification of self and other, and it does not *a priori* constitute a political economy issue or a security one.

Third (and most controversial), the centrality of the state is overstated. In discussing immigration politics, this is an anomalous allegation because border control, territorial integrity, and citizenship are major symbols of national sovereignty. That being said, to deny the multifariousness of the EU is to hinder an understanding of ongoing system transformation, to undermine analysis of present policymaking processes, and to distort expectations about the future. The assumption of aggregated state preferences is an oversimplification incompatible with contemporary Europe, where societal and governmental actors network across borders, interacting both horizontally and vertically within and without the state. Building on this criticism, intergovernmentalism recognizes the ability of institutions to affect *incentives*, but cannot explain how the *preferences* of domestic actors may be transformed by the actual and potential authority (and agency) of supranational institutional context.

Put in more radical terms, an obstinate attachment to the *concept* of sovereignty may be futile. Though accurate, it is tautological to say that integration has changed—but not eliminated—state sovereignty. If the goal is to create knowledge about the changing contours of EU immigration politics, Hoffman’s contention that the resilience or

transformation of state sovereignty is *the* guiding research problem in EU studies does not hold.⁴⁰

This is not at all to say that “sovereignty” and “the nation-state” are irrelevant as organizing concepts. To the contrary, the nation-state is the quintessential social form and the locus of immense power resources. Moreover, the *construct* of ideal-typical sovereignty is a powerful tool for European elites seeking to justify support or opposition to various integrative measures, especially regarding immigration and asylum cooperation. And yet, as an analytical framework, privileging the state sovereignty debate may inhibit analysis of other processes underpinning the shaping and making of immigration policy.

In order to more effectively study immigration politics in the European Union (and European integration more generally) perhaps “sovereignty” in its classical Weberian sense should be redefined as “the ability of states to achieve desired objectives.”⁴¹ In reality, both intergovernmental *and* supranational forces are at work at the systemic level, in conjunction with transnational actors working with and against each other concurrently in multiple locations sub-systemically. This state of affairs has been the catalyst for the growing contribution of “multi-level governance” approaches⁴² and Europeanization literature⁴³.

⁴⁰ Hoffmann, “Obstinate or Obsolete?” reprinted in Nelsen and Stubb, p. 176.

⁴¹ Geddes, *Immigration and European Integration: Towards Fortress Europe?* p. 38.

⁴² See Liesbet Hooghe and Gary Marks, *Multi-Level Governance and European Integration* (Lanham, Maryland: Rowman and Littlefield Publishers, 2001).

⁴³ See Markus Jachtenfuchs, “The Governance Approach to European Integration,” *Journal of Common Market Studies*, Vol. 39, No. 2 (June 2001): 245-64.

The Limits of the Current Debates: Alienating “American Social Science”?

The limits of the “old” IR-influenced grand theoretical debate⁴⁴ peaked during the “dark ages”⁴⁵ of the 1970s and 1980s after the self-proclaimed “obsolescence” of neofunctionalism and regional integration theory more generally.⁴⁶ Consequently, by the 1990s the perceived futility of grand theory had led to a proliferation of discernible alternative approaches that deemphasized or discarded the state sovereignty issue. Increasingly, insights from a diverse array of academic disciplines made their way into the study of Europe, suggesting that IR theory may ask the wrong questions and therefore provide inappropriate and inadequate analytical tools for studying the EU. In the new discussion, “governance” and “Europeanization” have attained buzzword status.

To be sure however, the grand theories are far from dead. Stone Sweet and Sandholtz’s modern neofunctionalism directly applies a Deutschian “transactionalist” framework and draws influence from governance literature and new institutionalism.⁴⁷ Meanwhile Moravcsik’s liberal intergovernmentalism puts greater emphasis on domestic society and institutional dynamics as important factors in the formation and convergence

⁴⁴ As opposed to the “new” grand theories of Stone Sweet and Sandholtz and Moravcsik.

⁴⁵ Robert O. Keohane and Stanley S. Hoffmann, “Institutional Change in Europe in the 1980s,” In R.O. Keohane and S. Hoffman (eds.), *The New European Community: Decisionmaking and Institutional Change* (Boulder, CO: Westview, 1991), pp. 1-39, p. 8. Cited in Markus Jachtenfuchs, “The Governance Approach to European Integration,” *Journal of Common Market Studies*, Vol. 39, No. 2 (2001): 245-264, p. 245.

⁴⁶ Ernst B. Haas, “The Obsolescence of Regional Integration Theory,” *Institute of International Studies*, University of California, Research Series No. 25 (1975).

⁴⁷ Alec Stone Sweet and Wayne Sandholtz, “Integration, Supranational Governance, and the Institutionalization of the European Polity,” in Wayne Sandholtz and Alec Stone Sweet (eds.), *European Integration and Supranational Governance* (Oxford: Oxford University Press, 1998), pp. 1-25. Reprinted in Nelsen and Stubb, pp. 215 – 238.

of national preferences.⁴⁸ However, by shunning grand theory in favor of small-scale empiricism, “governance” and “Europeanization” call into question the contribution of an “American social science”⁴⁹ to EU studies.

Governance and Europeanization

Multi-level Governance

So-called “multi-level governance”⁵⁰ presents an alternative to state-centrism, envisioning a “polycentric” Europe⁵¹ that includes state and non-state actors as well as supranational institutions with regulatory capacity. Actor-based approaches and network analyses help give substance to the “governance” model by exploring agency (and treating variation in structural effects as constant).⁵² Network approaches stem from the notion of “policy communities” initiated by British political scientists in the 1970s and 1980s attempting to explain stability in particular policy areas. “Policy communities” refer to networks of like-minded actors with similar interests, skills, and expertise.⁵³ Moving beyond particular policy sectors, the literature on technocratic “epistemic

⁴⁸ Andrew Moravcsik, “Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach,” *Journal of Common Market Studies*, Vol. 31, No. 4 (1993): 473-524.

⁴⁹ Stanley Hoffmann, “An American Social Science: International Relations,” *Daedalus* (Summer 1977): 41-59.

⁵⁰ See Gary Marks, Liesbet Hooghe, and Kermit Blank, “European Integration from the 1980s: State-Centric v. Multi-level Governance,” *Journal of Common Market Studies*, Vol. 34, No. 3 (September 1996): 341-378.

⁵¹ Markus Jachtenfuchs, “Theoretical Perspectives on European Governance,” *European Law Journal*, Vol. 1, No. 2 (1995): 115-33, p 115.

⁵² John Peterson and Elizabeth Bomberg, *Decision-Making in the European Union* (Basingstoke: Macmillan, 1999), p. 24.

⁵³ Ben Rosamond, *Theories of European Integration* (New York: St. Martin’s Press, 2000), p. 123.

communities”⁵⁴ and policy-seeking “advocacy coalitions”⁵⁵ stress the preferential underpinnings of policy-shaping actors and their agenda setting capacities.

Applied to immigration policy, Guiraudon’s work on “venue shopping”⁵⁶ explains the timing, form, and substance of EU immigration policy by focusing on interior ministry officials that “went transnational” in order to avoid domestic judicial constraints. Guiraudon draws on March and Olsen’s “garbage can” model—a sociological concept whereby parts of decision-making are thrown into a process more or less randomly.⁵⁷ By combining a network model with sociological institutionalism (see below), Guiraudon argues that the professional culture of these officials led them to pursue restrictive immigration policies.⁵⁸ By investigating the underlying processes that shape governments’ interests, actor-oriented approaches therefore challenge intergovernmental assumptions about preference formation and provide an important alternative to classical integration theory.

Despite the wisdom of a handful of scholars such as Guiraudon however, “multi-level governance” envisages a hazy portrait of the EU polity at best and its utility beyond a

⁵⁴ Peter Haas, “Introduction: Epistemic Communities and International Policy Co-ordination,” *International Organization* vol. 46, no. 1 (1992).

⁵⁵ Paul Sabatier, “An Advocacy Coalition Model of Policy-Making and Change and the Role of Policy-Oriented Learnings Therein,” *Policy Sciences* 1 (1988).

⁵⁶ Virginie Guiraudon, “European Integration and Migration Policy: Vertical Policy-making as Venue Shopping,” *Journal of Common Market Studies*, Vol. 38, No. 2 (June 2000): 251 – 271.

⁵⁷ James G. March and Johan P. Olsen, “Garbage Can Models of Decision Making in Organizations,” in James March and Roger Weissinger-Baylon (eds.), *Ambiguity and Command. Organizational Perspectives on Military Decision Making* (Marshfield, MA: Pitman, 1986): pp. 11-35; James March and Johan Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: Free Press, 1989); Johan Olsen, “Garbage Cans, New Institutionalism, and the Study of Politics,” *American Political Science Review*, Vol. 95, No. 1 (2001): 191-198; All cited in Virginie Guiraudon, “The Constitution of a European Immigration Policy Domain: A Political Sociology Approach,” *Journal of European Public Policy* 10: 2 (April 2003): 263 – 282, p. 264.

⁵⁸ Guiraudon, “European Integration and Migration Policy: Vertical Policy-making as Venue Shopping.”

vague organizing concept remains questionable. In short, at the crux of multi-level governance is the rather trivial observation that contemporary Europe is *complex*. Attempts to capture the complexity of the European polity have produced such bold appellations as “the international state,”⁵⁹ the “post-modern state,”⁶⁰ and most strikingly, “governance without government.”⁶¹ As Ben Rosamond puts it, “multi-level governance” quite simply constitutes a “*metaphor* used to depict the mature stage of the EU polity.”⁶² Recognizing this maturity leads scholars to investigate new research questions about the loci of agency, but the story remains unfinished and imprecisely written.

Europeanization

Like “governance,” “Europeanization” is a fashionable yet misunderstood term. Europeanization literature itself is deeply divided on the guiding research problems, the relevant variables, and the very definition of the phenomenon to be studied.⁶³ For the sake of forging clarity, this thesis relies on the most widely accepted definition, following Risse, Cowles, and Caporaso. They define “Europeanization” as the

emergence and the development at the European level of distinct structures of governance, that is, of political, legal, and social institutions associated with

⁵⁹ James A. Caporaso, “The European Union and Forms of State: Westphalia, Regulatory, or Post-Modern?” *Journal of Common Market Studies*, Vol. 34, No. 1 (March 1996): 29-52, p 33.

⁶⁰ Ibid.

⁶¹ James N. Rosenau and Ernst-Otto Czempiel, *Governance without Government: Order and Change in World Politics* (Cambridge: Cambridge University Press, 1992).

⁶² Rosamond, p. 201, emphasis added.

⁶³ For overviews, see for example Johan P. Olsen, “The Many Faces of Europeanization,” *Journal of Common Market Studies*, Vol. 40, No. 5 (2002): 921-952; Frank Schimmelfennig and Ulrich Sedelmeier, eds., *The Europeanization of Central and Eastern Europe* (Ithaca: Cornell University Press, 2005).

political problem solving that formalizes interactions among the actors, and of policy networks specializing in the creation of authoritative European rules.⁶⁴

Methodologically, “Europeanization” research generally investigates the impact of these distinct EU level governance structures on domestic policies, politics, and institutions.

Europeanization scholars seek to answer *how*, *to what extent*, and *under what conditions* the EU “matters.”⁶⁵ In general, the impact of the EU on states consists of the *direct* effects associated with accession and adhesion.

Thus, whereas integration theorists seek to explain the evolution and existence of events in Brussels from a “bottom-up” perspective, Europeanization research investigates the “top-down” or “second image reversed”⁶⁶ effects of regional governance on domestic policies, politics, and institutions.⁶⁷ Put differently, Europeanization turns the causal logic of traditional integration theory on its head. Whereas integration theories treat the EU as the dependent variable, for Europeanization scholars it is the independent one.⁶⁸ Analytically, this different view implies a departure from the established language of comparative political science and international relations in favor of domestic political analysis. A simplified comparison of integration and Europeanization literature along

⁶⁴ Thomas Risse, James Caporaso, and Maria Green Cowles, “Europeanization and Domestic Change,” Introduction, in Maria Green Cowles, James Caporaso, and Thomas Risse (eds.), *Transforming Europe: Europeanization and Domestic Change* (Ithaca, NY: Cornell University Press, 2001), pp. 1-20, p. 3.

⁶⁵ Tanja A. Börzel and Thomas Risse, “Conceptualizing the Domestic Impact of Europe,” in Kevin Featherstone and Claudio M. Radaelli (eds.), *The Politics of Europeanization* (New York: Oxford University Press, 2003), pp. 57-80, p. 57.

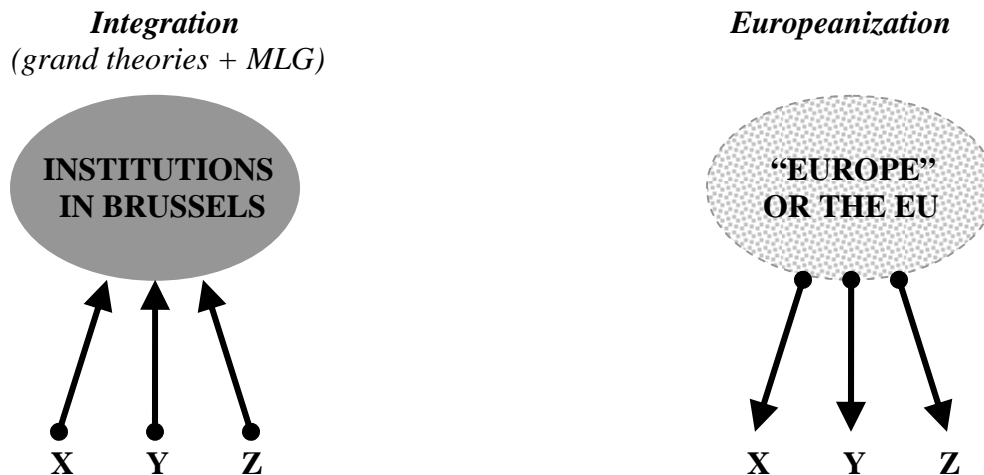
⁶⁶ Peter Gourevitch, “The Second Image Reversed: International Sources of Domestic Politics,” *International Organization*, Vol. 32, No. 4 (1978): 881-911.

⁶⁷ See, for instance Tanja A. Börzel and Thomas Risse, “Conceptualizing the Domestic Impact of Europe,” in Kevin Featherstone and Claudio M. Radaelli (eds.), *The Politics of Europeanization* (New York: Oxford University Press, 2003), pp. 57-80.

⁶⁸ Jachtenfuchs, “The Governance Approach to European Integration,” p 250.

these lines is depicted in Figure 2.1 below, where X, Y, and Z each represent some discrete set of policies, politics, institutions, and resultant preferences of actors (for clarity, call them states) at the sub-systemic level.

Figure 2.1 Different Causal Logics of Integration vs. Europeanization



The logic of Europeanization as depicted in Figure 2.1 is shared by Markus Jachtenfuchs’ “governance approach,”⁶⁹ which I therefore group with Europeanization literature. Jachtenfuchs concisely describes the bridge-building position of his approach: “[B]y leaving aside the question of the future of the nation-state...the governance approach is able to bridge the conceptual gap between the opposing ideal-typical worlds of the anarchical international system and hierarchical domestic systems.”⁷⁰ Governance research has provided a valuable complement to classical integration theory, generating fresh research questions that lead to a deeper understanding of European politics and allow comparisons with broader global phenomena.

⁶⁹ Jachtenfuchs, “The Governance Approach to European Integration.”

⁷⁰ Ibid., p 258.

Still, as with “multi-level governance” the vagueness of “Europeanization” is linked to several major limitations. First, the fragmented literature on “Europeanization(s)” lacks a cohesive theoretical basis. This means running the risk of appearing tautological in the absence of an established causal logic. Second, the concept of “governance” on which Europeanization rests has led many scholars to ignore or confuse the relevance and location of power relations. One “global governance” author has explicitly recognized this fault, arguing that “governance without government is governance without power,” which “rarely works.”⁷¹ Lastly, the methodological correlate to “governance” and “Europeanization” has created an overabundance of case studies that “risk increasing information without increasing knowledge.”⁷² Of course, this last point is not problematic if the first is resolved. To make sense of the information provided by governance and Europeanization, constructivism and new institutionalism provide some of the theoretical tools required to locate structure and agency in the relationship between domestic and regional immigration political dynamics.

⁷¹ Anne-Marie Slaughter, “The Real New World Order,” *Foreign Affairs*, Vol. 76, No. 5 (1997): 183-197, p 195.

⁷² Jachtenfuchs, “The Governance Approach to European Integration,” p 259.

The Constructivist Contribution to EU Studies: International Relations Revisited

The emergence of *constructivism*⁷³ in IR theory in the 1990s reinforced the much needed link between IR and EU studies by introducing human consciousness to international affairs.⁷⁴ Constructivists argue that rationalism and materialism overlook the impact of deeper processes of preference formation and identity change in international politics. In Ruggie's words, both neorealism and neoliberal institutionalism are "neo-utilitarian"⁷⁵ theories that borrow assumptions from microeconomics. Based on their lack of attention to "constitutive rules," both traditional theories are ill-equipped to explain system transformation.⁷⁶ Intellectually grounded in the sociology of Durkheim and Weber and John Searle's linguistic philosophy⁷⁷ rather than microeconomic theory, constructivists hold the capacity to investigate the "mutually constitutive" relationship between the structures and units of world politics.⁷⁸

Constructivists reject materialism, arguing that the international system is socially constructed. Moreover, the constructivist claim that social structures also shape actors'

⁷³ For an overview of different types of constructivism, see Jeffrey T. Checkel, "Social Constructivisms in Global and European Politics," *Review of International Studies*, 30 (2004): 229-244 and John Gerard Ruggie, "What Makes the World Hang Together? Neo-Utilitarianism and the Social Constructivist Challenge," *International Organization* 52, No. 4 (1998), pp. 879-880. For "structural" or "systemic" constructivism, see Alexander Wendt, "Constructing International Politics," *International Security*, Vol. 20, No. 1 (Summer, 1995), pp. 71-81, p. 72.

⁷⁴ *Journal of European Public Policy*, Vol. 6, No. 4, Special Issue (1999); Andrew Moravcsik, "The Choice for Europe," in Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power* (Ithaca, New York: Cornell University Press, 1998), pp. 1 – 17. Reprinted in Nelsen and Stubb, pp. 239 – 253.

⁷⁵ John Gerard Ruggie, "What Makes the World Hang Together? Neo-Utilitarianism and the Social Constructivist Challenge," *International Organization*, Vol. 52, No. 4 (1998): 855-885.

⁷⁶ *Ibid.*, p. 874.

⁷⁷ *Ibid.*, p. 856.

⁷⁸ Alexander Wendt, "Anarchy is What States Make of It: The Social Construction of Power Politics," *International Organization* 46, No. 2 (Spring 1992), pp. 395 – 421, p. 399.

interests and identities challenges rationalist assumptions. “Social facts” or “intersubjective beliefs”⁷⁹ are irreducible to material realities. According to Biersteker, “sovereignty” is a social construct that has evolved considerably since the “Westphalian ideal.”⁸⁰ Indeed, “sovereignty” is one of Ruggie’s archetypal “social facts,”⁸¹ along with money, property rights, and human rights. Searle also contrasts the similar idea of “institutional facts” that “require human institutions for their existence” with non-institutional “brute facts.”⁸² According to Searle, social facts exist because of “collective intentionality,” which cannot be reduced to a hierarchy of individual intentionalities.⁸³ Briefly, constructivism is holistic: the collectivity exists independently of the sum of its constituent individual beliefs.

Because it remains a budding field, critics argue that constructivism lacks methodological rigor and that it is not a theory at all. In response, Ruggie explains that constructivism is “a theoretically informed approach to the study” of IR,⁸⁴ rather than a theory in and of itself. Far from a weakness, this flexibility means—as the title of Ruggie’s seminal article suggests—that constructivism is well positioned to explain “what makes the world hang together.”⁸⁵ Constructivism is far from a panacea, but it

⁷⁹ Ruggie, p 869.

⁸⁰ Thomas J. Biersteker, “State, Sovereignty and Territory,” in Walter Carlsnaes, Thomas Risse and Beth A. Simmons, eds., *Handbook of International Relations* (London, UK: Sage, 2002): 157-176, p. 167, emphasis in original.

⁸¹ Ruggie, p 856.

⁸² John Searle, *The Construction of Social Reality* (New York: The Free Press, 1995), p 2.

⁸³ Searle, pp 23-25.

⁸⁴ Ruggie, pp. 879-880.

⁸⁵ Ibid.

offers a refreshing perspective. Along with the emergence of constructivism, I suggest that IR theorizing has adapted to the complexities of the world. Indeed, the latest IR thinking is about building bridges—blending domestic and systemic levels of analysis as well as reconciling the IR mega-theories. In this sense, constructivism may have “rescued IR” in EU studies research by investigating agency and structure, and by reconciling the nation-state debate via the argument that sovereignty is not a zero-sum concept.

The Rise of the “New” Institutionalism(s)

Motivated by a reaction against behavioralism and inspired by March and Olsen’s seminal work on “new institutionalism” in the mid- to late-1980s,⁸⁶ EU scholarship has also taken an “institutional turn”⁸⁷ since the 1990s.⁸⁸ Generally speaking, scholars of new institutionalism agree that institutions provide the structural context within which political, economic and social activity takes place. Therefore, institutions shape outcomes in important ways. Many new institutionalists also agree that actors’

⁸⁶ James G. March and Johan P. Olsen, “The New Institutionalism: Organizational Factors in Political Life,” *American Political Science Review*, Vol. 78 (1984): 734-49; James G. March and Johan P. Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: The Free Press, 1989).

⁸⁷ Mark Aspinwall and Gerald Schneider, “Same Menu, Separate Tables: The Institutional Turn in Political Science and the Study of European Integration,” *European Journal of Political Research* 38 (2000): 1 – 36; Keith Dowding, “Institutionalist Research on the European Union: A Critical Review,” *European Union Politics* 1 (2000): 125-144; Joseph Jupille and James A. Caporaso, “Institutionalism and the European Union: Beyond International Relations and Comparative Politics,” *Annual Review of Political Science* 2 (1999): 429-444.

⁸⁸ S. Bulmer, “The Governance of the EU: A New Institutional Approach,” *Journal of Public Policy*, Vol. 13, No. 4 (1994): 351-80; G. Garrett and G. Tsebelis, “An Institutional Critique of Intergovernmentalism,” *International Organization*, Vol. 50, No. 2 (1996): 269-99; M. Pollack, “Delegation, Agency and Agenda-Setting,” *International Organization*, Vol. 51, No. 1 (1996): 99-134; P. Pierson, “The Path to European Integration: A Historical Institutional Analysis,” *Comparative Political Studies*, Vol. 29 (1996): 123-63.

preferences and capacity for action are explicable only with respect to the institutional context.⁸⁹ However, in spite of the commonalities, new institutionalism is by no means a cohesive academic movement.

Put simply, institutionalists view institutions differently. Douglass North defines institutions as “the rules of the game in a society or, more formally...the humanly devised constraints that shape human action.”⁹⁰ The word *constraint* embodies the controversy between institutional scholars of different camps. On the one hand, defining institutions as “constraints” implies a limited capacity for actor input. On the other, it seems to dismiss the possibility that the institutional context may actually “free” or mobilize certain domestic actors.

Structurationists like Giddens and Cerny argue that “structures which are generally constraining can also change and be changed in certain conditions.”⁹¹ Institutions are *processes* rather than “static edifices.”⁹² Soysal’s 1994 study on European citizenship by illustrates this point, finding that immigration policies conditioned the mobilization of particular ethnic and immigrant organizations, rather than vice versa.⁹³ Moreover, Patrick Ireland’s work on the political mobilization of immigrants in France and Switzerland reveals how the institutional context creates opportunities for domestic actors

⁸⁹ James G. March and Johan P. Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: The Free Press, 1989).

⁹⁰ Douglass C. North, *Institutions, Institutional Change, and Economic Performance*, (New York: Cambridge University Press, 1990), p 3.

⁹¹ Philip G. Cerny, *The Changing Architecture of Politics: Structure, Agency and the Future of the State* (London: Sage, 1990), xi.

⁹² Geddes, p. 40.

⁹³ Yasemin N. Soysal, *Limits to Citizenship: Migrants and Postnational Membership in Europe* (Chicago, IL: Chicago University Press, 1994).

to organize through a variety of constantly changing “institutional gatekeepers.”⁹⁴ This implies that actors’ interests and identities are shaped by institutional context. In Keohane’s words, “Institutions do not merely reflect the preferences and power of the units constituting them; the institutions themselves shape those preferences and that power. Institutions are thus *constitutive* of actors, as well as vice versa.”⁹⁵ The disagreement about the direction and degree of constitutive power is rooted in a broader debate between economics and sociology.

The Rationalist-Constructivist Divide

The economics-sociology distinction within new institutionalism closely mirrors the debate within IR theory between “neo-utilitarian”⁹⁶ theories and social constructivism. Indeed, the “great debate”⁹⁷ within new institutionalism has been appropriately titled the “rationalist-constructivist divide.”⁹⁸ While rationalists emphasize material incentives and constraints on domestic actors, constructivists focus on identity and preference (trans)formation through simulation, persuasion, and socialization.⁹⁹ Broadly speaking,

⁹⁴ Patrick Ireland, *The Policy Challenge of Ethnic Diversity: Immigrant Politics in France and Switzerland* (Cambridge, MA: Harvard University Press, 1994).

⁹⁵ Robert O. Keohane, “International Institutions: Two Approaches,” in R. Keohane (ed.), *International Institutions and State Power: Essays in International Relations Theory* (Boulder, CO: Westview, 1989), pp. 158 – 179, p. 161.

⁹⁶ Ruggie, “What Makes the World Hang Together?”

⁹⁷ Peter Katzenstein, Robert Keohane, and Stephen Krasner, (eds.), *Exploration and Contestation in the Study of World Politics* (Cambridge, MA: MIT Press, 1999); Walter Carlsnaes, Thomas Risse, and Beth Simmons, (eds.), *Handbook of International Relations* (London: Sage, 2002).

⁹⁸ See, for instance, the special issue of *International Organization*, Vol. 52, No. 4, International Organization at Fifty: Exploration and Contestation in the Study of World Politics (Autumn, 1998), which features the rationalist-constructivist debate.

⁹⁹ Frank Schimmelfenning and Ulrich Sedelmeir, (eds.), *The Europeanization of Central and Eastern Europe* (Ithaca and London: Cornell University Press, 2005), p. 6.

three variants of new institutionalism dominate the discussion: rational choice, sociological, and historical institutionalism.

Rational choice institutionalists, influenced by economics, share many assumptions with liberal intergovernmentalism. From the rational choice perspective, institutions serve the relatively fixed preferences of the rational actors that created them.¹⁰⁰ Under the condition that states have mutual interests, institutions affect state behavior by changing *incentives*, although state *preferences* are developed exogenously.¹⁰¹ In short, rational choice approaches take domestic actors' preferences as given and seek to explore how institutions shape behavior by changing material incentives. Institutions are intervening variables that allow states to realize their preferences by increasing bargaining efficiency and decreasing transaction costs. Rational choice institutionalists emphasize the effects of *formal* institutions and therefore overlook the effects of norms.

Sociological institutionalists or constructivist institutionalists, by contrast, emphasize the constitutive capacity of institutions as independent variables to shape actors' preferences and identities.¹⁰² They define institutions more broadly, incorporating norms, soft law, and discursive settings, focusing on the long-term effects on domestic actors' preferences and identities. In this vein, Barnett and Finnemore's theory of organizational culture explains the sources of authority, power, and "pathologies" of international

¹⁰⁰ Mark Pollack, "Delegation, Agency, and Agenda Setting in the European Community," *International Organization*, Vol. 51, No. 1 (1997): 99-134; Robert O. Keohane, "Neoliberal Institutionalism: A Perspective on World Politics," in Robert O. Keohane, ed., *International Institutions and State Power: Essays in International Relations Theory* (Boulder, CO: Westview Press, 1989), pp. 1-20.

¹⁰¹ Keohane, "Neoliberal Institutionalism: A Perspective on World Politics," pp. 2-3.

¹⁰² P. Berger and T. Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (Harmondsworth: Penguin, 1967), quoted in R. Jepperson, "Institutions, Institutional Effects, and Institutionalism," in W. Powell and P. DiMaggio (eds.), *The New Institutionalism in Organizational Analysis* (Chicago: University of Chicago Press, 1991), p. 151.

organizations. As bureaucracies, institutions possess authority beyond state delegation, including rational-legal authority, moral authority, and expertise,¹⁰³ from which they derive the power to classify, define, and diffuse new concepts, norms, and rules.¹⁰⁴ This bureaucratic model applies well to the Commission's efforts to increase its own authority in issues related to social inclusion, anti-discrimination, combating human trafficking, and the more general mantra of addressing the "root causes of migration flows,"¹⁰⁵ with the ultimate goal of "combating illegal immigration at its source."

Finally, *historical institutionalists* occupy a middle ground, distinguishing between the short- and long-term effects of institutional context on actors' choices. In the short term, actors may appear to act rationally given current institutional constraints. In the long run, however, actors' preferences are affected by the "unintended consequences" of past institutional choices.¹⁰⁶ In this sense, institution-building is "path dependent"—that is, current preferences have been defined endogenously to the "thick" historical institutional structure.¹⁰⁷ Furthermore, institutional context is "sticky" because of sunk

¹⁰³ Michael Barnett and Martha Finnemore, *Rules for the World: International Organizations in Global Politics* (Ithaca, NY: Cornell University Press, 2004), p. 16.

¹⁰⁴ Barnett and Finnemore, p. 31.

¹⁰⁵ For examples, see [COM(2005)] 491 final, "Communication from the Commission: A Strategy on the External Dimension of the Area of Freedom, Security and Justice," Brussels, 12.10.2005, p. 4 of 12; [COM(2003) 323 final], "Communication from the Commission to the European Parliament and the Council in View of the European Council of Thessaloniki: On the Development of a Common Policy on Illegal Immigration, Smuggling and Trafficking of Human Beings, External Borders and the Return of Illegal Residents," Brussels, 3.6.2003, p. 12 of 21; [COM(2002) 703 final], "Communication from the Commission to the Council and the European Parliament: Integrating Migration in the European Union's Relations with Third Countries," Brussels, 3.12.2002.

¹⁰⁶ Paul Pierson, "The Path to European Integration: An Historical Institutional Approach," *Comparative Political Studies*, Vol. 29, No. 2 (1996): 123-163.

¹⁰⁷ S. Bulmer, "The governance of the EU: A New Institutional Approach," *Journal of Public Policy*, Vol. 13, No. 4 (1994): 351-80; Paul Pierson, "The Path to European Integration: An Historical Institutional Approach," *Comparative Political Studies*, Vol. 29, No. 2 (1996): 123-63.

costs. Pierson refers to control “gaps”¹⁰⁸ whereby “[a]ctors may be in a strong initial position, seek to maximise their interests and nevertheless carry out institutional policy reforms that fundamentally transform their own positions...in ways that are unanticipated or undesired.”¹⁰⁹ Historical institutionalists suffer from internal disagreements about the significance of cultural factors. While Pierson and Immergut¹¹⁰ lean toward rational choice, Armstrong and Bulmer¹¹¹ pay strong attention to organizational culture.

If rationalism and constructivism occupy positions at “two ends of the same spectrum,”¹¹² as Aspinwall and Schneider have described it, then it is illustrative to import Hall and Taylor’s placement of rationalist, historical, and sociological variants along a continuum¹¹³ with historical institutionalism between the rational and sociological poles. Drawing from Jupille and Caporaso,¹¹⁴ Figure 2.2 below illustrates the positions of the various new institutionalisms according to agency and structure parameters—that is, whether preferences and institutions are endogenous or exogenous to

¹⁰⁸ Paul Pierson, “The Path to European Integration: An Historical Institutional Approach,” *Comparative Political Studies*, Vol. 29, No. 2 (1996): 123-163, p. 156.

¹⁰⁹ Pierson, p. 126.

¹¹⁰ Ellen M. Immergut, “The Rules of the Game,” in S. Steinmo, K. Thelen, and F. Longstreth, (eds.), *Structuring Politics: Historical Institutionalism in Comparative Analysis* (New York: Cambridge University Press, 1992), pp. 57-89.

¹¹¹ Kenneth Armstrong and Simon Bulmer, *The Governance of the Single European Market* (Manchester, UK: Manchester University Press, 1998).

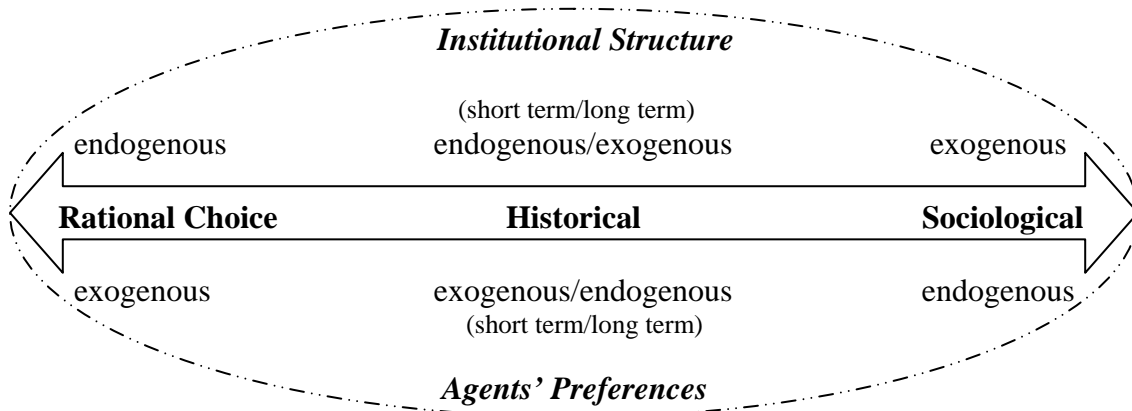
¹¹² Mark Aspinwall and Gerald Schneider, “Institutional Research on the European Union: Mapping the Field,” in Gerald Schneider and Mark Aspinwall, (eds.), *The Rules of Integration: Institutional Approaches to the Study of Europe*, European Policy Research Unit Series (Manchester, UK and New York, NY: Manchester University Press, 2001), p. 2.

¹¹³ P. Hall and R. Taylor, “Political Science and the Three New Institutionalisms,” *Political Studies*, Vol. 44, Issue 4 (1996): 936-957.

¹¹⁴ Joseph Jupille and James A. Caporaso, “Institutionalism and the European Union: Beyond International Relations and Comparative Politics,” *Annual Review of Political Science* 2 (1999): 433.

the model. Though not technically part of the “new institutionalist” literature, structuration theory treats both institutional structure *and* agents’ preferences as endogenous.

Figure 2.2 Variants of Institutionalism, by Agency and Structure Parameters



Defining Institutions

For the purposes of this thesis, *institutions* are defined broadly. They are, following North, the “rules of the game,” though they do not necessarily constrain action. Three related concepts are “soft law,” “norms,” and “regimes.” *Soft law* refers to agreed-upon, non-binding rules and procedures advanced by a formal institution such as the CEC. Similarly, *norms* are informal standards of behavior internalized by actors that shape worldviews and influence policy. *International regimes*, following Keohane, are relatively informal rule and norm structures,¹¹⁵ characterized by a form of multi-level governance. Soft law, norms, and regimes are all institutions. Following Slaughter,

¹¹⁵ Robert O. Keohane, “International Institutions: Can Interdependence Work?” *Foreign Policy* (Spring 1998): 82-96, p 85.

governance—as opposed to formal government—implies an informal, decentralized, multi-actor, and dynamic framework for collective problem solving.¹¹⁶

Digression: A Word on Agency and Structure

The agent-structure problem is of central theoretical significance in the social sciences. It raises fundamental questions about the autonomy of human individuals and groups, the nature of social change, and the issue of causality in social activity—in short, “what makes the world hang together?”¹¹⁷ While agent-oriented theories explore the ability of human actors to affect their structural environment, structuralist analyses envision sets of constraints and opportunities that affect actors’ (ir)rational decisions.

The debate clearly has important implications for understanding the dynamics of EU immigration politics and integration more generally. Policy network approaches place emphasis on agency in order to explain the content, form, and timing of the structures that guide policymaking. By contrast, institutionalists focus on how the “rules of the game” frame the decisions of relevant actors. I make the case that a one-sided approach that emphasizes either agency or structure paints a partial and incomplete—though important—picture of the evolution of EU immigration policies and the EU more generally. By focusing on the mutually constitutive relationship between agency and structure, constructivist approaches offer a more nuanced and insightful understanding of social change.

¹¹⁶ Anne-Marie Slaughter, “The Real New World Order,” *Foreign Affairs*, Vol. 76, No. 5 (1997): 183-197, p 184.

¹¹⁷ Ruggie, “What Makes the World Hang Together?”

In order to more tangibly grasp the pervasive agency-structure interrelationship in everyday life, and to demonstrate the near impossibility of separating structure from its constituent processes, it is illustrative to entertain a brief thought exercise. Consider the human individual as both a biological structure and an internal physical and mental process that holds that structure together. The personality “structure” of the individual, in turn, is shaped by continuous interaction with environmental stimuli and by the cognitive processes that make sense of those interactions.

Now consider a specific individual—a jazz musician with technical skills on the trumpet and expertise in be-bop improvisation. The trumpet player attends a jam session with like-minded musicians, each of whom may be the product of different musical traditions and distinct cultures, and each may have acquired differing tastes and variegated worldviews leading to diverse preferences. Each of those different preferences is an input in the performance—that is, the way in which each musician improvises in relation to the others. If the jam session is a success, those same musicians may begin to play together regularly and more frequently. The resulting musical and social “structure” is a product of those preferences, which are in turn reshaped by routinized interaction.

Call the trumpet player Miles. Consider how and/or whether young Miles was transformed by playing regularly with two older, more experienced musicians (call them Dizzy and Bird). Certainly, jazz aficionados are interested in how Miles’ vocabulary, technique, and style were shaped by continuous interaction with Dizzy and Bird. But music lovers and casual listeners alike are also interested in the music: the overall “structural” output. This same discussion easily translates to the relationship between a

specific musical group (and perhaps individual musicians) and a *movement*—for example, be-bop.

It is not so difficult or far-fetched to extend the metaphor to international politics. Applied to immigration policy in the EU, Miles becomes an interior minister, with expertise in policing and law-and-order. A group of collective jazz improvisers becomes an informal forum of like-minded officials from different countries. The nascent be-bop movement becomes an emerging regional immigration policy domain with its own logic, routines, and direction. In this sense, the structure of “Europe” in relation to immigration policy is best understood as a *process*. Moreover, Miles’ identity and preferences cannot be traced to one institution, organization, or school of thought. Miles attended Julliard, but he really learned music through jam sessions with Charlie Parker on 52nd street in New York. Likewise, the immigration official may work for a particular state, but his or her understanding of immigration policy is also the result of informal transgovernmental forums. The impact of these shared understandings, as reflected in the more general EU immigration policy “movement,” contextualizes and further reshapes the policymaking “style.” The “movement,” the “group,” and the “players” are all profoundly interrelated.

“Infra-processes” and “Extra-structures”: Geographical Spillover and Rival Transgovernance

In *The Uniting of Europe*, Haas describes an often overlooked concept of spillover that differs from the conventional understanding of the term. He argues that integration has a propensity for enlargement through a “geographical spillover effect” because

functional interdependence affects and attracts bordering countries.¹¹⁸ Indeed, enlargement did take place empirically, although rather slowly. When considering immigration policy, a different concept of “geographical spillover” may also be useful. In an extensive comparative analysis of immigration control policies in Europe, Brochmann and Hammar found a tendency toward the “externalization of control,”¹¹⁹ from internal immigrant policies, to external border controls, to third countries and “buffer zones.” This finding may be combined with the insights of another early neofunctionalist scholar. Schmitter’s “externalization hypothesis” expected that after a period of integration, member states—having adopted common policies—would feel

compelled—regardless of their original intentions—to adopt common policies *vis-à-vis* nonparticipant third parties. Members will be forced to hammer out a collective external position (and in the process are likely to rely increasingly on the new central institutions to do it).¹²⁰

While the EU has no clear common foreign policy (or immigration policy for that matter), externalization nonetheless takes place in the *absence* of formal central authority. Hence, “geographical spillover” as used in this thesis borrows from neofunctionalist terminology to explain a pattern of foreign policy formation emerging from immigration policy that incorporates norms, epistemic communities, and transgovernmental (not necessarily “intergovernmental”) interaction between member states.

¹¹⁸ Ernst Haas, *The Uniting of Europe: Political, Social and Economic Forces, 1950-7*, (London: Stevens, 1958), p. 314.

¹¹⁹ Grete Brochmann and Thomas Hammar (eds.), *Mechanisms of Immigration Control: A Comprehensive Analysis of European Regulation Policies* (Oxford; New York: Berg, 1999).

¹²⁰ Philippe Schmitter, “Three Neo-functional Hypotheses about International Integration,” *International Organization*, Vol. 23, No. 1 (1969): 161-166, p. 165, cited in Arne Niemann, “The PHARE Programme and the Concept of Spillover: Neofunctionalism in the Making,” *Journal of European Public Policy*, Vol. 5, No. 3 (September 1998): 428-446; p. 431.

Explored in greater depth in Chapters Four and Five, my use of *geographical spillover* refers to an overarching “*extra-structural*” outcome marked by the tendency to externalize and export the burden of immigration control outward. For example, the northwestern European “core”—which in this thesis refers to France, Germany, Belgium, Luxembourg, and the Netherlands, plus the UK and Ireland—shifted the control burden outward to the southern and eastern states during the 1990s, thereby inflicting profound effects on Spanish policymaking. Spain, having been incorporated into the control regime and having itself inherited a heavy control burden, has shifted that control even further from the “core,” stretching southward through agreements with North African transit countries (Morocco, Algeria, Tunisia), and moving on to sub-Saharan source countries (Senegal, Mauritania), as well as pursuing similar agreements with South American countries. The Commission, following Barnett and Finnemore’s bureaucratic model, also gets involved in the externalization and exportation of control as part of its desire to derive power from expanding moral authority in the areas of human rights and social inclusion norms, as well as a loft commitment to “fighting illegal migration at its source.”

Meanwhile, *rival transgovernance* (see Chapter Three) builds on Guiraudon’s political sociology approach to provide the theoretical framework for the “*infra-processes*” underpinning of “extra-structural” externalization policy movement, whereby the actors associated with the “core” countries cemented a security definition of immigration and asylum because of the professional/bureaucratic culture of law-and-order officials and because of their access to state power resources. Rival transgovernance is not the same as intergovernmentalism. On the contrary, the main

contribution of the rival transgovernance model is the explanation and elaboration of the ideational context from which state preferences later germinated. Therefore, it is in fact analytically prior to intergovernmentalism in the analysis.

Rival transgovernance provides a sub-systemic starting point that involves epistemic communities and state officials *networking* across borders and competing with other sub-systemic interests such as immigrants' rights groups, all of whom vie for control of the policy domain. If power is conceived of in both its brute and social forms, then the winning preferences are generally those of the most powerful actors. These winning preferences may then lead to convergence through cross-border socialization. Convergence can also lead to gradual supranationalization as governments begin to feel closer together (in many senses of the word).

However, the "closeness" explored here challenges prevailing Europeanization literature. It is an *indirect* result that happens in multiple overlapping partnerships and groupings at the sub-systemic level, including *geographical regions* (e.g., the Mediterranean), *ideological regions* (e.g., the "pro-integration" countries), and *historical regions* (e.g., Franco-German relations). At the systemic level, the analysis refocuses the lens in order to implicate the grand theories, depicting a hybrid supranational-intergovernmental institutional configuration of the emergent EU immigration policy regime.

Conclusion: Research Frontiers and Theoretical Synthesis

The grand theories and IR are far from dead. Modern versions of neofunctionalism and intergovernmentalism reemerged in the 1990s, revising the more traditional

assumptions of Haas and Hoffmann. Moreover, the surfacing of new institutionalism and constructivism has helped open opportunities for synthesis between IR and other approaches. Such theoretical synthesis is necessary to interpret the wealth of otherwise disorganized data generated by the (often atheoretical) empirical research on governance and Europeanization. Without a theoretical roadmap, it is impossible to comprehend the dynamics underlying the integration and/or “Europeanization(s)” of immigration and asylum policy in various overlapping spatial and temporal frames.

In the new millennium, the levels-of-analysis and rationalism-constructivism motifs resonate more strongly than ever in EU studies literature. The rift between modern neofunctionalism and liberal intergovernmentalism mirrors the classical grand theoretical disagreement, while multi-level governance and Europeanization scholars challenge the utility of “grand theories” altogether. Furthermore, supranationalist, intergovernmentalist, and multi-level governance theorists—many of whom are unified by rationalist assumptions—have formed an anomalous alliance against the constructivist critique.¹²¹ While some immigration research and more general EU scholarship has addressed this gap, more studies need to focus on applying constructivist and new institutionalist insights to the data supplied by the literature on “governance” and “Europeanization.”

Remarkably, many of the points of contention within EU studies may be reconcilable. By directly applying the Deutschian notion of “transactional” communication density, Stone Sweet and Sandholtz’s neofunctionalism is compatible on many levels with both

¹²¹ Brent F. Nelsen and Alexander Stubb, Introduction to Chapter 27: “Social Construction and European Integration” by Jeffrey T. Checkel, in Brent F. Nelsen and Alexander Stubb (eds.), *The European Union: Readings on the Theory and Practice of European Integration*, 3rd edition (Boulder, CO and London, UK: Lynne Rienner Publishers, 2003), p. 352.

Pollack's rational choice institutionalism and Hooghe and Marks' governance approach. Moreover, supranationalists and intergovernmentalists basically agree on the capacity of institutions to affect behavior, an assumption also shared by governance scholars and modern constructivists such as Jeffrey Checkel (as opposed to critical and interpretive "post-modern" constructivists).¹²² Even more interestingly, the various theories of European integration are not necessarily competitive. John Peterson and Elizabeth Bomberg propose one method of theoretical synthesis in EU studies, honing the relative strengths of different theories at different levels of analysis. The authors convincingly argue that liberal intergovernmentalism and neofunctionalism, new institutionalism, and policy network analysis may each serve as the "best" theories at the "super-systemic," "systemic," and "sub-systemic" levels, respectively.¹²³ Their approach is reproduced in Table 2.1 below.

Table 2.1 Peterson and Bomberg's Approach: "Putting Theory in Its Place"

Level	Type of Decision	Bargaining Mode	Rationality	"Best" Theory
Super-systemic	History-making	Intergovernmental	Political	Liberal intergovernmentalism/ Neofunctionalism
Systemic	Policy-setting	Interinstitutional	Political; technocratic	New institutionalism
Sub-systemic	Policy-shaping	Resource exchange	Technocratic; consensual	Policy network analysis

Source: John Peterson and Elizabeth Bomberg, "Making Sense of EU Decision-Making," from *Decision-Making in the European Union* by John Peterson and Elizabeth Bomberg (London: Palgrave, 1999), pp. 4 – 30. Nelsen and Stubb pp. 313 – 333, p. 319.

¹²² Jeffrey T. Checkel, "Social Constructivisms in Global and European Politics," *Review of International Studies*, 30 (2004): 229-244; John Gerard Ruggie, "What Makes the World Hang Together? Neo-Utilitarianism and the Social Constructivist Challenge," *International Organization* 52, No. 4 (1998), pp. 855-885, p 881.

¹²³ John Peterson and Elizabeth Bomberg, "Making Sense of EU Decision-Making," from *Decision-Making in the European Union* by John Peterson and Elizabeth Bomberg (London: Palgrave, 1999), pp. 4 – 30. Reprinted in Nelsen and Stubb pp. 313 – 333, p. 319.

Peterson and Bomberg's highly intelligent framework addresses the levels-of-analysis problem, but leaves the rationalist-constructivist dispute unsettled. Likewise, their schematic assesses the comparative utility of different theories in separate spatial positions, but discounts differentiation along temporal lines. In order to tackle the agent-structure problem in an analytically sound manner, then, the insights of social constructivism should be combined with rationalism in each separate spatial and temporal stage of the political process.

The utility of constructivism to multi-level analysis is well documented in a variety of studies within integration, Europeanization, and policy analysis literature. However, similar applications to immigration and asylum as related to European integration and/or Europeanization are not well explored, not least because intergovernmentalism visibly monopolizes political cooperation in issues related to external border control for third country nationals (TCNs) and national security. But as more studies have empirically demonstrated the agency of transgovernmental and non-state actors in the construction of immigration and asylum, a purely intergovernmentalist look at "grand bargains" is insufficient. Gallya Lahav notices the "growing gap" in immigration literature between an overwhelming focus on policy outputs and policy inputs, for which knowledge is relatively lacking.¹²⁴ Moreover, immigration is by definition an issue area intimately linked with identity, signifying the necessary utility of constructivist approaches. Lahav recognizes this fact and pursues an "attitudinal" approach in order to understand the basic norms at work behind long-term policy developments.¹²⁵

¹²⁴ Lahav, p. 10.

¹²⁵ Ibid.

The analysis in Chapters Three, Four, and Five applies an eclectic framework to the case of Spanish immigration policy in order to contribute to the conversations on immigration, integration, and Europeanization. The approach of this thesis is appropriate and the contribution is significant *because* of its unorthodoxy and not in spite of it. By applying Giddens' bracketing system to an intertemporal, three-stage research design that investigates the hard case of immigration along multiple levels of analysis, I address the avenues for reconciliation established in this chapter, thereby contributing to the "deepening and widening"¹²⁶ of European integration studies, particularly in relation to the multi-level dynamics of EU "governance."

The argument proceeds in stages. First, Chapter Three (stage 1) traces the emergence of immigration policy coordination within an informal framework of *ad hoc* meetings and transgovernmental forums among state officials, who cemented the definition of immigration in terms of security concerns. I show how and to what extent this security definition became embedded in a vague, hybrid intergovernmental-supranational institutional framework through the 1985 Schengen Agreements, the 1986 SEA, the 1992 TEU, and at Amsterdam in 1997, Tampere in 1999, Nice in 2000, Laeken in 2001, and Seville in 2002.

Second, Chapter Four (stage 2) turns to Spanish immigration policy, with attention to how the institutionalization of immigration as a security issue affected and conflicted with the interests and identities of societal actors and policymakers in Spain. Regional institutional structure is bracketed in order to exploit variation in domestic politics and policymaking. In Chapter Five (stage 3) Spain's reciprocity becomes the focus,

¹²⁶ Markus Jachtenfuchs, "Deepening and Widening Integration Theory," *Journal of European Public Policy* 9, No. 4 (August 2002): 650-657.

bracketing domestic context in order to explain regional structural fluctuations. Finally, Chapter Six concludes with a discussion about the implications of the tension between Community-wide and Spanish domestic attitudes for the possible futures of European immigration policy.

Though I take a decidedly systemic constructivist slant, I supplement my argument with other theoretical assumptions in order to more fully explain the process of mutual constitution. This particular form of “analytical eclecticism,”¹²⁷ to use Katzenstein and Sil’s terminology, is justified in that it affords “an opportunity to draw upon clusters of empirical observations, causal logics, and interpretations spanning different research traditions...to take advantage of complementarities”¹²⁸ both theoretically and empirically.

For instance, in the first stage, power competition plays a significant role. Competition is not purely “intergovernmental” sense between aggregated state interests, but rather among and between bureaucrats from different branches of government as well as transnational immigrant rights organizations. Because each group networks across borders within its own area of expertise, I describe this process as “rival transgovernance.” In this stage, the analysis is compatible with research on “epistemic communities” and “advocacy coalitions” within which socialization shapes policy outcome and subsequent institutionalization.

In the second and third stage, I draw assumptions from Pierson’s historical institutionalism and Barnett and Finnemore’s sociological institutionalism. The second

¹²⁷ Peter J. Katzenstein, and Rudra Sil, “Rethinking Asian Security: A Case for Analytical Eclecticism,” in J.J. Suh, Peter J. Katzenstein and Allen Carlson, eds., *Rethinking Security in East Asia: Identity, Power, and Efficiency* (Stanford, CA: Stanford University Press, 2004): pp. 1-33, p. 16.

¹²⁸ Ibid.

stage challenges the prevailing Europeanization literature in the sense that Spain's immigration policy evolution is not the direct result of accession and/or adhesion. While Spanish elites do think within an "EU mindset" regarding immigration policies and their foreign policy implications, they are also influenced by more tangible national concerns and by indirect factors such as "European" (and indeed, "sub-European") sets of norms, identities, and international media.

In the third stage, the "intergovernmental" component emerges to analyze and predict the effects of the bargaining power of Spanish actors on future policy harmonization possibilities. Throughout, I consciously mix sub-systemic and systemic levels of analysis in order to demonstrate the mutually constitutive effects of agency and structure over time and place. The following Chapter, "Emergent EU Immigration Policy Structures: The Sorcerer's Syllabus," describes and analyzes the development of the EU immigration policy context within which Spanish immigration policy may be analyzed.

CHAPTER THREE

EMERGENT EU IMMIGRATION POLICY STRUCTURES: THE SORCERER'S SYLLABUS

“European integration can be seen as a distinct west European effort to contain the consequences of globalization. Rather than be forced to choose between the national polity for developing policies and the relative anarchy of the globe, west Europeans invented a form of regional governance with polity-like features to extend the state and harden the boundary between themselves and the rest of the world,”

-H. Wallace¹

Immigration has become a salient issue in global and European politics since the mid-1980s, igniting several decades of heated debate in academic, societal, and political circles alike. Empirical evidence suggests a tendency among developed Western liberal societies toward convergence in the pursuit of restrictive policies intended to “stem” unwanted immigrants rather than “solicit” potentially desirable ones.² In Europe in particular, the specter of “Fortress Europe”³ is a polarizing concept. Realist and intergovernmentalist explanations of border crackdowns capture a mere fragment of the picture. The spread of restrictive policies across Europe was not part of a reactionary movement against the tangible national security threats caused by increasing

¹ Helen Wallace, “Politics and Policy in the EU: The Challenge of Governance,” in Helen Wallace and William Wallace (eds), *Policy-Making in the European Union* (Oxford: Oxford University Press, 1996), p 16.

² Joppke, p 259.

³ Geddes, *Immigration and European Integration: Towards Fortress Europe?*

immigration. Instead, the opposite is true. Immigration was defined as a “threat” during the 1980s and 1990s—*before* empirical evidence could corroborate such a position.

Equipped with the theoretical tools to analyze immigration policies within the context of regional integration, it is necessary to sketch the contours of those policies in order to trace the collaborative brushstrokes of agency and structure. Because a comprehensive analysis of the history of European immigration policies is beyond the scope of this thesis, I limit the present analysis to synthesizing the central findings of prominent studies in this field and relating those findings to European integration and the relevant literature on immigration.

In doing so, this chapter accomplishes three central theoretical and descriptive tasks. First, it clarifies the central features and controversies of immigration literature as related to free movement and the market-making functions of the EU. While immigration policy cooperation and implementation remain intergovernmental, there is also evidence of a gradual and hesitant incorporation of immigration policy into the formal EU Treaty framework. This hybrid intergovernmental-supranational depiction consists of (1) the discourse of “control” and “immigrant integration” accompanied by restrictive policies coexisting with cycles of expansion, and (2) the externalization/exportation of control.

Second, it establishes agency in the construction of immigration and asylum issues within informal networks of government officials and subnational interest groups since the 1980s. Focusing on the power and professional culture of state bureaucrats, this “rival transgovernance” framework broadens Guiraudon’s political sociology approach to include other interrelationships among the various actors and structures underpinning European integration. By examining the alternatives, this approach helps explain why a

security focus won out over the economic, demographic, and social inclusion concerns of business interests, transnational NGOs, and other immigrants' rights activists. The latter category of actors has been mobilized by supranational forces seeking to expand their own authority in relation to free movement, but generally transnational actors have access to fewer sources of power than state actors (although this could theoretically change). The result is a "two-speed" integration process flavored by social inclusion juxtaposed with restriction and control of a security "problem."

Third, the construction of migration issues in the northwestern European "core"⁴ relates to the struggle between what can broadly be defined as "realist" ("protectionist") and "liberal" ("expansionist") regional norms towards immigration that impel divergent policy-shaping processes. These themes reflect what many scholars have indicated as a fundamental tension within liberal democratic societies between restriction motivated by realist protectionism and expansion accelerated by liberalization. In contrast to this position, the ensuing analysis suggests that the alleged "paradox" of liberal democracies is exaggerated or non-existent. Far from incompatible, border controls are natural and necessary pursuits. Ultimately however, the ideal of "control" has proven increasingly difficult—if not impossible—to achieve as immigration flows continue and even increase. Moreover, the problem of social inclusion may represent a more interesting challenge, as liberal democratic societies may feel uncomfortable marginalizing or

⁴ Throughout the following chapters, I make reference to the northwestern "core" of Europe, by which I mean the original Schengen countries and the major players in the construction of immigration as a security issue. Broadly speaking, then, the "core" refers to France, Germany, Belgium, Luxembourg, and the Netherlands, plus the UK and Ireland. By Chapter Five, it becomes more relevant to speak of the G5 Group, which consists of the five largest European countries (France, Germany, Italy, the UK, and Spain). With the addition of Poland, the G5 Group has become the G6 Group. Still, the definition of the northwestern "core" outlined here remains relevant throughout the analysis because of its implications for the underpinnings of immigration policymaking in the EU.

deporting third country nationals (TCNs). In sum, this chapter establishes the context within which to analyze the short and dynamic history of Spanish immigration politics.

The Meaning of “Immigration”

Immigration literature can sometimes confuse readers because of the variety of terms that are used and misused to refer to different phenomena. The boundaries between “migration,” “immigration,” and “asylum” are often unclear. While “migration” refers to the general process by which people move within and/or between countries or regions, “immigration” entails the inflow of nationals of other countries. In “Europe,” the picture becomes more complicated because under Schengen most EU member states have abolished border controls for EU citizens traveling within Europe. Therefore, migration, for example, between France and Germany or between Spain and the Netherlands no longer constitutes “immigration” in the traditional sense. Rather, such movements can be called *intra-EU movement* or simply captured under the EU’s market-related elaboration of “free movement.”

As distinguished from internal migration (by “Europeans” within “Europe”), *immigration* describes the process by which extra-EU migrants enter Europe. *Immigrants* include resident *third country nationals* (TCNs) that are not citizens. Within the “immigrant” umbrella category, several relevant subcategories should be identified, including (1) *economic or labor immigrants*; (2) *denizens or foreign residents*; (3) *political immigrants or refugees*; and (4) *aliens or illegal immigrants*.

“Asylum” falls under the third category. Although asylum and immigration represent two very distinct issues (the former is political and the latter is—in principle—

economic), this thesis does not claim to provide comprehensive clarification between immigration policies and asylum policies. Rather, attention is focused on the norms and institutions underlying the politicization of immigration, the flavor of resultant control policies, and the effects of these developments on the Spanish experience. Therefore, unless referring to events, legislation, or actors that deal specifically and exclusively with *either* immigration *or* asylum, in general (and for the sake of simplicity) I may consciously group both together under the single term “immigration policies.” Such an oversimplification is justified analytically because the politicization of immigration in Europe since the mid-1980s has in fact conflated the two concepts in reality.⁵

The Politicization and Securitization of Immigration

From Laissez Faire to “New Security”

Because the lengthy history of immigration in Europe is well covered elsewhere,⁶ a brief overview presently suffices to help contextualize the evolution of European attitudes and policy strategies towards immigration. To this end, three more or less distinct stages of immigration dynamics in northwestern Europe after World War II should be distinguished. First, immediately following the war northwestern European countries considered temporary labor migration a positive economic and demographic force for reconstruction, a position that led to the adoption of *laissez faire* policies.⁷

⁵ Jef Huysmans, “The European Union and the Securitization of Migration,” *Journal of Common Market Studies*, Vol. 38, No. 5 (December 2000): 751-777, p. 755.

⁶ See Lahav, *Immigration and Politics in the New Europe*; Geddes, *Immigration and European Integration: Towards Fortress Europe?*

⁷ Lahav, p. 29.

Immigration did not enter the political or social spheres and therefore did not factor as a major issue in public opinion or in public policy decisions.

Second, in the 1970s and early 1980s growing social and economic problems dampened the positive mood toward foreign labor as it became clear that countries struggling with recession and unemployment could no longer absorb massive inflows of immigrants.⁸ Faced with domestic crises, state governments intervened in the market, enforced deportations, and sought to minimize further immigration flows.⁹ The end of this second period also witnessed a nascent politicization of immigration as it became clear that foreign workers had come to stay.¹⁰ Two types of immigrants—guest workers that stayed and former colonial subjects—had become undeniable realities in northwestern European countries by this point. According to Joppke, both categories were the unwanted and “unintended consequences of the pursuit of other interests.”¹¹ Hence, in addition to the earlier economic and demographic interpretation of foreign labor, immigration slowly entered the political and social realms.

The key development during the third stage is the internationalization of migration through the acceleration of globalizing forces in the late twentieth century. “Immigration” and “emigration” increasingly overlapped during this period, especially as the southern European countries transitioned from traditional “emigration” countries to

⁸ Mark Miller, *Foreign Workers in Western Europe: An Emerging Political Force* (New York: Praeger, 1981).

⁹ Lahav, p 30.

¹⁰ Stephen Castles, H. Booth, and T. Wallace, *Here for Good: Western Europe's New Ethnic Minorities* (London: Pluto Press, 1984); Mark Miller, *Foreign Workers in Western Europe: An Emerging Political Force* (New York: Praeger, 1981).

¹¹ Joppke, p. 261.

modernized “immigration” countries (see Chapter Four).¹² As a result of the different experiences of the southern countries and the “balancing out” of immigration flows between North and South, in this period questions of social inclusion entered the public discourse.¹³ However, whereas immigration had formerly been an issue only for the northern countries, “balancing out” also aided in crystallizing the salience of immigration throughout Europe as a “new security” issue by the end of the twentieth century.¹⁴ According to Koslowski, by the 1990s migration had moved from “low” to “high” politics because foreign ministers—as opposed to labor ministers—entered the migration arena.¹⁵ Borrowing Huysmans’ terminology, with politicization came the “securitization” of immigration.¹⁶

Expansion and Restriction in a Globalizing System

To make sense of this last stage, immigration scholars and globalization theorists have paid increasing attention to the argument that the trade off between expansion and restriction represents a fundamental challenge to Western liberal democratic societies,

¹² See overview in Russell King, Gabriella Lazaridis, and Charalambos Tsardanidis (eds.), *El Dorado or Fortress? Migration in Southern Europe* (Houndmills, Basingstoke, Hampshire, New York, NY: Palgrave Macmillan, 2000); see also L. Koch, “Impact of the Reversal of the Migration Situation on the Social Structure of Certain Countries: The Case of Italy,” *International Migration* 27 (1989): 191-201.

¹³ Lahav, p. 30.

¹⁴ Dieder Bigo, “Migration and New Security,” in Virginie Guiraudon and Christian Joppke (eds.), *Controlling a New Migration World* (London: Routledge, 2001), pp. 121-149; Jef Huysmans, “Migrants as a Security Problem: Dangers of ‘Securitizing’ Societal Issues,” in Robert Miles and Dietrich Thränhardt (eds.), *Migration and European Integration: The Dynamics of Inclusion and Exclusion* (London: Pinter, 1995), pp. 53-72; Jef Huysmans, “The European Union and the Securitization of Migration,” *Journal of Common Market Studies*, Vol. 38, No. 5 (2000): 751-777.

¹⁵ Rey Koslowski, “European Union Migration Regimes: Established and Emergent,” in Christian Joppke (ed.), *The Challenge to the Nation-State: Immigration in Western Europe and the United States* (New York: Oxford University Press, 1998), pp. 153-188, p. 153.

¹⁶ Huysmans, “The European Union and the Securitization of Migration.”

whereby liberal regimes for goods and capital coexist with restrictive ones for labor movement.¹⁷ This is an identity question as much as a logistical one and the implications for immigration politics are profound. The rapid politicization of immigration experienced in the third stage described above is part of a larger preoccupation with new security and identity “threats” near the end of the Cold War. For European countries, in addition to history, language, and culture, one of the most important symbols of national identity is a particular type of social system. Temporarily overlooking the distinction between social-democratic and corporatist versions, one may call this social emblem of national identity the “European” welfare state model.

At the end of the twentieth century, the “logic” of globalization implied rather dire futures for the viability of the western European welfare state and for sovereignty more broadly, and immigration was directly implicated in this “logic.”¹⁸ Kitschelt raises the ominous question: “will the multiculturalism of still by and large homogenous or ethnically stable Western Europe lead to a decline of the welfare state?”¹⁹ Indeed, in the 1980s migration was politicized and “problematized” in a massive policy debate about

¹⁷ Andrew Geddes, *Immigration and European Integration: Towards Fortress Europe?* European Policy Research Unit Series (Manchester, UK and New York, NY: Manchester University Press, 2000); Gallya Lahav, *Immigration and Politics in the New Europe* (Cambridge, UK: Cambridge University Press, 2004); Grete Brochmann and Tomas Hammar (eds.), *Mechanisms of Immigration Control: A Comparative Analysis of European Regulation Policies* (Oxford; New York: Berg, 1999); Saskia Sassen, *Losing Control? Sovereignty in an Age of Globalization*, (New York: Columbia University Press, 1996); Miguel Glatzer and Dietrich Rueschemeyer, (eds.), *Globalization and the Future of the Welfare State*, (University of Pittsburgh Press, 2005).

¹⁸ Saskia Sassen, *Losing Control? Sovereignty in an Age of Globalization*, (New York: Columbia University Press, 1996).

¹⁹ Herbert Kitschelt, *The Politics of European Welfare States* (New York: Cambridge University Press, 1995), pp. 258-9, p. 270, cited in Keith G. Banting, “Looking in Three Directions: Migration and the European Welfare State in Comparative Perspective,” in Michael Bommes and Andrew Geddes (eds.), *Immigration and Welfare: Challenging the Borders of the Welfare State* (Routledge, 2000), pp. 13-33, p.13

the future of the welfare state and the insecurity of domestic society in general.²⁰ Among other issues, globalization was of central concern.²¹ By linking multiculturalism to the weakening of the welfare state, immigration became one of many factors that contributed to an alleged “identity crisis” of such magnitude that it revealed the symptoms of “an endangered society.”²²

Building on the perceived implications of the post-Cold War security order, the EU’s market-making commitment to internal free movement implied abuses by transnational criminals and terrorists. Alongside these “new” actors, immigration was deemed part of “the dark side of globalization.”²³ It constituted a “threat” to the European way of life rather than a (potentially positive) labor market issue. The definition of policy in such terms did not derive from any logical or objective property of the international environment necessarily; it was a construction.

In fact, numerous studies on the relationship between globalization and welfare systems suggest that the language of crisis is—to say the least—exaggerated. Banting’s comparative analysis of European welfare states concludes that the “expansive welfare states of continental Europe...appear to have been more successful [than other Western democracies] in incorporating new immigrant minorities into their social-citizenship

²⁰ Huysmans, p. 756.

²¹ Ibid, p 752.

²² Ibid., p. 752.

²³ Jerry Mander, “The Dark Side of Globalization,” *The Nation*, Vol. 263, Issue 3 (7/15/2006 – 7/22/2006): 9-14.

regimes.”²⁴ Similarly, in his investigation of “embedded liberalism” in Portugal and Spain, Glatzer points to the success of some states to even *build* a welfare state while embracing openness.²⁵

Regardless of whether immigration does or does not empirically undermine European social policy systems (and in the face of aging and shrinking populations, it may actually help in the future),²⁶ what is important to immigration and integration is the construction of that threat.²⁷ It is clear that while some factors of production have been liberalized (mainly goods and capital), immigration has been restricted and free movement generally does not apply to TCNs.²⁸ The question then becomes: *how* did this situation come about? Who are the principal actors and where was their action located?

²⁴ Keith G. Banting, “Looking in Three Directions: Migration and the European Welfare State in Comparative Perspective,” in Michael Bommers and Andrew Geddes (eds.), *Immigration and Welfare: Challenging the Borders of the Welfare State* (Routledge, 2000), pp. 13-33, p. 31.

²⁵ Miguel Glatzer, “Revisiting ‘Embedded Liberalism’: Globalization and the Welfare State in Spain and Portugal,” in Miguel Glatzer and Dietrich Rueschemeyer (eds.), *Globalization and the Future of the Welfare State* (University of Pittsburgh Press, 2005): 106-129.

²⁶ UN Population Division Studies 2000-2006; M. Dolores Collado, Iñigo Iturbe-Ormaeche, and Guadalupe Valera, “Quantifying the Effects of Immigration on the Spanish Welfare State,” *International Tax and Public Finance* 11 (2004): 335-353; Christian Joppke, “European Immigration Policies at the Crossroads,” in Paul Heywood, *Developments in West European Politics 2* (Gordonville, VA, USA: Palgrave Macmillan, 2002), pp. 259-276.

²⁷ Andrew Geddes, *Immigration and European Integration: Towards Fortress Europe?* European Policy Research Unit Series (Manchester, UK and New York, NY: Manchester University Press, 2000), p. 21; Christian Joppke, (ed.), *Challenge to the Nation State: Immigration in Western Europe and the United States* (Oxford: Oxford University Press, 1998); Rey Koslowski, “European Union Migration Regimes: Established and Emergent,” in Christian Joppke (ed.), *The Challenge to the Nation-State: Immigration in Western Europe and the United States* (New York: Oxford University Press, 1998), pp. 153-188; Ben Rosamond, “Discourses of Globalisation and the Social Construction of European Identities,” *Journal of European Public Policy*, Vol. 6, Issue 4, Special Issue (1999): 652-668.

²⁸ Andrew Geddes, *Immigration and European Integration: Towards Fortress Europe?* European Policy Research Unit Series (Manchester, UK and New York, NY: Manchester University Press, 2000); Gallya Lahav, *Immigration and Politics in the New Europe* (Cambridge, UK: Cambridge University Press, 2004); Grete Brochmann and Tomas Hammar (eds.), *Mechanisms of Immigration Control: A Comparative Analysis of European Regulation Policies* (Oxford; New York: Berg, 1999).

The Structure of Agency:
Diverse Actors and Multiple Venues in Rival Transgovernance

To explain why and how immigration was not only politicized but also *securitized*, the broader context of identity crisis requires careful attention to *agency* within the issue-framing process. Guiraudon's concept of "venue shopping"²⁹ contributes a thorough explanation of the process leading to the victory of the security mindset and the resultant policy implications of that outlook. "Venue shopping" presupposes a multi-level governance framework, such that the interested actors in a particular policy domain can choose different policy-making and -shaping "venues" at various levels of the EU polity in order to "escape domestic adversaries"³⁰ and the constraints of judicial oversight, for example. Utilizing this framework, Guiraudon is able to explain the structure, substance, and sequence of European immigration policies by emphasizing power competition among actors vying for control of the same policy domain (in her case, law-and-order state bureaucrats from Justice and Interior ministries pursued a secretive transgovernmentalism and favored informal non-binding soft law mechanisms in order to gain authority over Foreign Affairs ministers).³¹

Though Guiraudon astutely argues that each rival group had "a pre-formatted set of policy solutions based on their expertise,"³² immigration officials and transnational police organizations obviously could not have simply invented the security agenda

²⁹ Virginie Guiraudon, "The Constitution of a European Immigration Policy Domain," *Journal of European Public Policy*, Vol. 10, No. 2 (April 2003): 263-282; Virginie Guiraudon, "European Integration and Migration Policy: Vertical Policy-making as Venue Shopping," *Journal of Common Market Studies*, Vol. 38, No. 2 (June 2000): 251-271.

³⁰ Guiraudon, "The Constitution of a European Immigration Policy Domain," p. 264.

³¹ Ibid.

³² Ibid., p. 277.

spontaneously. Rather, the broader context of identity crises delineated above had to have shaped these officials' interests and identities, which were then further solidified as the result of their belonging to—and iterated interaction within—their own professional subcultures. Given this scenario, the emergent policy coordination provides excellent empirical support for a constructivist approach. Because immigration officials had been socialized within a specific field, they shared beliefs and interests related to security problems, which had profound effects on the gradual institutionalization of immigration policy: “Their own professional identity explains the bias towards control and policing.”³³ This analysis demonstrates the power of sociological institutionalist concepts such as “epistemic communities” to shape the parameters of issue-specific discourse and thereby affect policy outcomes.

Here, Barnett and Finnemore's brand of sociological institutionalism also plays a supporting explanatory role.³⁴ To the extent that immigration policy was shaped by officials from national bureaucracies, “bureaucratic culture” was an important variable. Bureaucratic culture is defined as “the solutions that are produced by groups of people to meet specific problems they face in common.”³⁵ By using the language of “crisis” and defining migration as a “threat,” immigration officials undoubtedly exercised both “regulative” and “constitutive” power through at least two of the three mechanisms identified by Barnett and Finnemore: (1) classification of the world by categorizing problems, and (2) fixing meanings to those classifications.³⁶

³³ Ibid., p. 278.

³⁴ Barnett and Finnemore, p. 5.

³⁵ Ibid, p 19.

³⁶ Ibid, p 31.

Something could also be said here about the Commission's role in furthering a "social inclusion" agenda. Because Barnett and Finnemore focus mainly on explaining the authority of formal bureaucratic IOs, their bureaucratic model applies even more directly in the case of supranational institutions like the Commission. Indeed, the supranational pursuit of the "social inclusion" and anti-discrimination agendas is primarily the result of the Commission's desire to actively increase its authority in immigration policy *vis-à-vis* national governments. As Geddes puts it, "it need not be the case that the Commission has a positive view about migrants' rights (it may or may not and, anyway, is subject to intra-organisational tensions because of its various migration policy responsibilities), but that, rather, it has a positive view about its own role."³⁷ The authority derived from this pursuit is real and important, but up to now it has struggled to compare with the power resources of states, especially given the persistent decentralized institutional configuration of immigration policy which requires unanimity in the Council of Ministers for most decisions.³⁸

Lahav corroborates this position. She shows that EU level institutions and transnational NGOs have become increasingly prominent in the advancement of a "social inclusion" agenda.³⁹ However, the permeation of "labyrinthine procedures" and the "web of intergovernmental fora" throughout the policy domain ensure that, in the end, national governments retain the majority of influence on policy outcomes.⁴⁰ Put more concisely,

³⁷ Geddes, p. 151.

³⁸ Ibid., p. 150.

³⁹ Lahav, *Immigration and Politics in the New Europe*.

⁴⁰ Ibid., p. 50.

“Despite the incremental Europeanization of migration policy, protectionist states are tenacious; they have simply become better camouflaged.”⁴¹ Moreover, pro-immigrant actors also suffered from power competition amongst themselves. The European Union Migrants’ Forum (EUMF) founded by the Commission in 1991 was torn apart by competition among immigrants from representing different sending countries.⁴² NGOs also competed in the pursuit different objectives and different definitions of the “pro-immigrant” agenda. While the Migrants’ Forum sought citizenship for TCNs, The Migration Policy Group (MGP) fought for “social exclusion” and later joined organizations such as the Starting Line Group (SLG) in following the “anti-discrimination” path.⁴³

The “social exclusion” frame of the MGP and SLG ultimately won out as a result of organizational strength, expertise, and the vague nature of the term “inclusion,” which “is likely to be able to sustain itself in the long term and potentially be institutionalized at the European level” because such a broad concept implies a vast array of policy responses.⁴⁴ While “social inclusion” and other agendas related to immigrants’ rights continue to gain support in the EU, the likelihood that immigration will be fundamentally redefined as a non-security issue is low. As Guiraudon explains, immigration officials “have accumulated a legitimacy capital and the policy domain has been institutionalized in a

⁴¹ Ibid., p. 50.

⁴² Guiraudon, “The Constitution of a European Immigration Policy Domain,” p 278.

⁴³ Ibid., pp. 273-274.

⁴⁴ Andrew Geddes, “Thin Europeanisation: The Social Rights of Migrants in an Integrating Europe,” in Michael Bommes and Andrew Geddes (eds), *Immigration and Welfare: Challenging the Borders of the Welfare State* (London: Routledge, 2000), pp. 209-226, p. 224.

way that cannot be easily undone.”⁴⁵ By the time that immigration policies gradually began to be formally institutionalized, law-and-order bureaucrats had already solidified their role in immigration policy formation. By 1990 Guiraudon notes, “‘Solutions’ had been devised before ‘problems’ had been defined. The solution was police co-operation and reinforced controls.”⁴⁶ Until security-oriented officials stop reproducing their interests and identities through regular interaction (an unlikely outcome given their power-seeking objectives and the intergovernmental dominance of the immigration policy domain), other approaches to immigration policy remain secondary.

The Treaty on European Union (Maastricht Treaty) reflected the established security frame by placing immigration and asylum in the “third pillar” on Justice and Home Affairs (JHA) policy, which “made a clear connection between immigration and asylum and other internal security issues.”⁴⁷ While immigration remains an area of intergovernmental cooperation rather than a fully “Europeanized” one, the “developing European immigration policy framework...is centered on its control and security dimensions”⁴⁸ with fewer “measures dealing with aspects of immigrant integration policy, such as action against discrimination on grounds of ethnic or racial origin.”⁴⁹

The initial steps in immigration policy cooperation discussed thus far are widely described as “intergovernmental” in the sense that state actors cooperated outside the EU framework (a convention upheld in this thesis for the sake of clarity). However, it must

⁴⁵ Guiraudon, p 278.

⁴⁶ Guiraudon, p. 273.

⁴⁷ Geddes, p. 88.

⁴⁸ Ibid, p 107.

⁴⁹ Ibid, p 108.

be stated that the intergovernmentalist assumption of aggregated state preferences clearly from the reality of the situation, which would more aptly be described as “transgovernmental.” Moreover, while some state actors secured a prominent role in shaping the direction of immigration policy, supranational and sub-national elements entered the emergent policy domain in the pursuit of a very different agenda.

Playing on European identity concerns, the post-Cold War security environment, and equipped with access to state power, certain state actors elaborated a security agenda that initially had a greater influence on European immigration policies than human rights, social inclusion, anti-discrimination, and anti-racism norms. The informal and secretive institutions involved in the “securitization” of immigration produced a “sticky” mindset. On this point, I diverge from Guiraudon’s assertion that the securitization of immigration is not a “path-dependent” story.⁵⁰ The emphasis on restriction, especially in the form of increasingly stringent external border controls, may indeed vindicate historical institutionalist expectations (see Chapter Four) without being incompatible with the development of a separate agenda for the inclusion of immigrants that have already established lives on European soil. Security “norms” constitute a central component of the underpinnings that influence political actors’ subsequent positions, discourses, and decision-making processes, which are then visibly prominent in policy outcomes. To fully illustrate the impact of these underpinnings, the analysis now turns to the institutional configuration of immigration policies in the EU, tracing the securitarian influence throughout the processes of European integration.

⁵⁰ Guiraudon, p. 278.

The Structure(s) of Immigration Policy: Intergovernmental, Supranational, and Other

While market-orientation has been a central theme of European integration since the Treaty of Rome, the first responses to the shared salience of immigration among member states in the 1980s took place through informal intergovernmental arrangements such as the *Ad Hoc* Group on Migration and the Schengen Agreement, both of which reinforced a security mindset. The formal presence of immigration and asylum within the EC/EU legal structure includes only a handful of treaties, the most important of which include the Single European Act in 1986, and the Treaties at Maastricht in 1992, Amsterdam in 1997, and Nice in 2000. The European summits at Tampere in 1999, Laeken in 2001, and Seville in 2002 also attempted (though in large part failed) to “give teeth” to a common immigration policy.⁵¹

While a strong intergovernmental bias prevails in policy implementation, the evolution of the Treaty framework nonetheless hints at a hesitant supranationalization of immigration and asylum and the new social and political opportunities that such a move entails. Geddes has noted a “three-stage” shift toward a decision-making shift that he calls “communautarisation,” beginning with informal intergovernmental cooperation after the SEA, then moving to formal intergovernmental cooperation under Maastricht’s JHA pillar, and culminating in the transfer of immigration and asylum to the community “first pillar” at Amsterdam.⁵² Although the direct authority of supranational institutions in immigration is limited, this evolution mirrors a mounting “community building” mindset,

⁵¹ Lahav, p. 5.

⁵² Geddes, p. 130

without which the single market and its implications for immigration and asylum would be inconceivable.

Schengenland

The first serious move toward realizing the free movement of persons came from several pro-integration countries in the European “core” seeking the elimination of internal border controls. Originally composed of five member states (Belgium, France, Germany, Luxembourg, and the Netherlands), the 1985 Schengen Agreement was adopted outside the Community framework as an informal form of intergovernmental cooperation. Since then, it has been elaborated by the 1995 Schengen Convention and the Schengen *acquis* has been incorporated into the EU legal structure through the Amsterdam Treaty. “Schengenland” now comprises 15 states that have fully implemented the Agreement.⁵³ The implications of Schengen for immigration and asylum are vast. In a clear “compensating” security measure, the Schengen *acquis* stresses customs and police cooperation⁵⁴ and includes the Schengen Information System (SIS), a computerized database to compile and share information among members.

The SIS is explicitly concerned with monitoring “aliens” (TCNs) and the right of member states to restrict entry based on: criminal history, “grounds for believing” that an alien has committed a crime or might do so, past deportations or refusals to entry, or

⁵³ Thirteen of the 27 EU members have implemented the Schengen Agreement: Austria, Belgium, Denmark, Finland, France, Germany, Italy, Greece, Luxembourg, the Netherlands, Portugal, Spain, and Sweden. Norway and Iceland are also Schengen members, but not EU members. From <http://www.schengenvisa.cc/>, last updated and accessed 22 March 2007.

⁵⁴ Article 9, “The Schengen Acquis,” *Office Journal of the European Communities*, 22 Sept 2000, available http://ec.europa.eu/justice_home/fsj/freetravel/frontiers/fsj_freetravel_schengen_en.htm, accessed 12 March 2007.

“failure to comply with national regulations on the entry and residence of aliens.”⁵⁵ The SIS is problematic because implementation of immigration policies is left to member-state institutions, which differ (sometimes drastically). The procedures and definitions for deportation, entry requirements, and residence regulations differ from state to state. Therefore, if one country defines a category of “alien” for which entry or residence requirements are especially strict, the information shared with other countries simply “red flags” such persons despite incongruent institutions.

By 2003 the SIS was sponsored by the EU and applied to 13 of the then 15 members, as well as EUROPOL,⁵⁶ Eurojust,⁵⁷ and state prosecutors. In 2004, SIS II was proposed to extend access to the UK, Ireland, and the ten accession states. In addition, the Visa Information System (VIS) and the Passenger Name Record (PNR) databases contain detailed personal information—including biometric identification of fingerprints, DNA, retinal scans, etc.—for the more than 20 million visa applications received by EU member states each year.⁵⁸ Moreover, the Prüm Convention between Belgium, Germany, Spain, France, Luxembourg, the Netherlands, and Austria in May 2005 established the SIS III. The treaty signed at Prüm explicitly links illegal immigration with terrorism and criminality, “concerning the deepening of cross-border cooperation, in particular in the

⁵⁵ Article 96, “The Schengen Acquis,” *Office Journal of the European Communities*, 22 Sept 2000, pp. 43-33 of 473, available http://ec.europa.eu/justice_home/fsj/freetravel/frontiers/fsj_freetravel_schengen_en.htm, accessed 12 March 2007.

⁵⁶ EUROPOL, effective since July 1999, was established by the 1995 Convention on a European Police Office.

⁵⁷ EUROJUST, which came into force in January 2003, consists of national prosecutors and police officers dealing with security-related issues.

⁵⁸ Ben Hayes, “Statewatch Analysis: From the Schengen Information System to SIS II and the Visa Information (VIS): The Proposals Explained,” *Statewatch*, Online, February 2004, p. 3 of 45, available <http://www.statewatch.org/news/2005/may/analysis-sisII.pdf>, accessed 26 February 2007.

fields of the fight against terrorism, cross-border criminal activities and illegal immigration.”⁵⁹

The Treaty Framework

Along with Schengen, the acceleration of the single market program through the 1986 Single European Act (SEA) effectively linked immigration with European integration, although the unanimity principle of Intergovernmental Conferences (IGCs) left immigration policy implementation in the hands of national governments. The General Declaration on Articles 13 to 19 of the SEA demonstrates the intergovernmental outcome, which directly linked immigration to security matters:

Nothing in these provisions shall affect the right of Member States to take such measures as they consider necessary for the purpose of controlling immigration from third countries, and to combat terrorism, crime, the traffic in drugs and illicit trading in the works of art and antiques.⁶⁰

Similarly, the TEU in 1992 placed immigration and asylum alongside criminal justice and police cooperation in the intergovernmental “third pillar” on JHA. Maastricht also introduced a concept of “European citizenship” that required prior possession of nationality of a member state,⁶¹ which further hardened the distinction between “EU citizens” who enjoyed the right to free movement, and TCNs who did not.⁶²

⁵⁹ The Prüm Convention, 27 May 2005, *Statewatch*, Online, available <http://www.statewatch.org/news/2005/jul/schengenIII-english.pdf>, p. 1 of 18, accessed 15 March 2007.

⁶⁰ “Final Act and Declarations of the Single European Act,” Luxembourg, 17 Feb 2006, PDF document available <http://www.eurotreaties.com/eurotexts.html#singleeuropeanact>, accessed 12 March 2007.

⁶¹ Title 1, Article B, “Treaty on European Union,” Maastricht, 7 February 1992, available <http://www.eurotreaties.com/maastrichttext.html>, accessed 10 March 2007.

⁶² Yasemin N. Soysal, *Limits of Citizenship: Migrants and Postnational Membership in Europe* (Chicago: University of Chicago Press, 1994); Elspeth Guild, “Competence, Discretion and Third-Country Nationals: The European Union’s Legal Structure with Migration,” *Journal of Ethnic and Migration Studies*, Vol. 24, No. 4 (1998): 613-26; Ulrich Preuss, “The Relevance of the Concept of Citizenship for the Political and

The 1997 Amsterdam Treaty laid the most fertile groundwork for Europeanizing immigration and asylum policy. In addition to incorporating the Schengen *acquis* into the EU legal structure, Amsterdam transferred immigration and asylum from JHA to the Community “first pillar” through the introduction of Title IV on “Visas, Asylum, Immigration and Other Policies Related to the Free Movement of Persons.”⁶³ The subsequent European summits at Tampere, Laeken, and Seville sought to elaborate and implement the goals set out at Amsterdam, but ultimately provided few substantive mechanisms to do so.

Immigration policy competency at the EU level stems from the Commission’s activities regarding anti-racism, anti-discrimination, and social integration. The Commission provides funding for initiatives directed towards the integration of workers and combating racism. In addition, Amsterdam included an anti-discrimination article, and the Council of Ministers has approved two directives that cover (1) discrimination by employers, and (2) racial or ethnic discrimination in various areas.⁶⁴ In areas related to the rights of TCNs, the agenda has evolved considerably. First, the principal goal of pro-immigrant NGOs before Maastricht was to extend citizenship to TCNs. After the introduction of European citizenship at Maastricht, the agenda shifted to “social inclusion” and “anti-discrimination,” and later to tackling the often criticized “democratic

Constitutional Development of the EU,” in Ulrich K. Preuss and Ferran Requejo (eds), *European Citizenship, Multiculturalism, and the State* (Baden-Baden: Nomos Verlagsgesellschaft, 1998), pp. 11-28.

⁶³ “The Treaty of Amsterdam: Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts,” Amsterdam, 2 October 1997, p. 26 of 81.

⁶⁴ Council Directive 2000/43/EC of 29 June 2000 [*Official Journal* L 180, 19/07/2000, pp. 22-6] and Council Directive 2000/78/EC of 27 November 2000 [*Official Journal* L 303, 02/12/2000, pp. 16-22], cited in Virginie Guiraudon, “The Constitution of a European Immigration Policy Domain,” *Journal of European Public Policy*, Vol. 10, No. 2 (April 2003): 263-282, p 267.

deficit” in EU governance. Throughout this process alliances between the Commission and public interest groups were crucial, supporting an image that looks more neofunctional than intergovernmental. EU efforts such as the SLG and the EUMF facilitated the development of immigrants’ rights interest groups at the European level.⁶⁵ As detailed above, such initiatives nevertheless suffered from severe weaknesses. For example, the Migrants’ Forum was torn apart by internal power struggles between Turks and Moroccans, and has since been suspended.⁶⁶

While the evidence of supranational interest in issues like anti-discrimination is important, a move toward supranational *authority* faces obstacles in effective monitoring and enforcement of implementation. In addition, the Commission’s repeated calls to “tackle illegal immigration at its source”⁶⁷ both stem from “social inclusion” and outweigh it as a driving agenda. These efforts have also not amounted to significant Europeanization of policies. In reality, most implementation is left to member state discretion. The placement of immigration and asylum under the first pillar was not devoid of security thinking. In making this point Huysmans argues, “Discourses and government technologies reifying immigrants, asylum-seekers, refugees and foreigners as a dangerous challenge to societal stability play a prominent role in connecting [the]

⁶⁵ Virginie Guiraudon, “European Integration and Migration Policy,” *Journal of Common Market Studies*, Vol. 38, No. 2 (2000): 251-272; Patrick Ireland, “Asking for the Moon: The Political Participation of Immigrants in the European Community,” in G.A. Kourvetaris and A. Moschonas (eds), *The Impact of European Integration* (Westport, CT: Praeger, 1996), pp. 131-149.

⁶⁶ Guiraudon, “The Constitution of a European Immigration Policy Domain,” p. 273.

⁶⁷ COM (2000) 757 final, 22 November 2000, Section 2.1: “Partnership with Countries of Origin”; SEMDOC: The Tampere Summit Conclusions, 15-16 October 1999, *Statewatch*, Online available <http://www.statewatch.org/news/2003/sep/tamp.htm>, accessed 15 March 2007.

different issues” connected with migration.⁶⁸ Moreover, free movement still does not apply to TCNs, except under very specific circumstances and with limited scope. Willy Anderson summarizes,

Under Community law the rights of non-EC nationals to entry, residence, work, social security benefits, education and other social and tax advantages are based either on their relationship with EC nationals or firms or on their status as a national of a country with which the Community has concluded an international agreement.⁶⁹

Still, the symbolic value of associating immigration and asylum with the supranational level—however gradual—should not be underestimated. In the long run, the emergence of immigration on the supranational agenda can be an important force for mobilization of new interests that might broaden EU immigration policies.

The Duality of Immigration and “Two-Speed” Integration

The two broad approaches to immigration in the EU—control vs. inclusion—can be attributed to the many various policy implications of such an expansive issue area. Immigration is widely understood as a “two-fold dilemma”⁷⁰ that implies at least two distinct sets of policies. First, *immigration control policy* entails external and internal management of flows through regulation of borders, visa systems, and monitoring residence and work permits, among other mechanisms.⁷¹ Second, *immigrant policy* refers

⁶⁸ Huysmans, p. 770.

⁶⁹ Willy Anderson, “Free Movement of Non-EC Nationals: A Review of the Case-Law of the Court of Justice,” *European Journal of International Law*, Vol. 3, No. 1 (1992): 53-64, p. 63.

⁷⁰ Lahav, p. 4.

⁷¹ For a comprehensive analysis of control mechanisms, see Grete Brochmann and Tomas Hammar (eds.), *Mechanisms of Immigration Control: A Comparative Analysis of European Regulation Policies* (Oxford; New York: Berg, 1999).

to strategies related to the integration of immigrants into the host society (e.g., access to public services, education, social and political rights, etc.). Empirically, the two policy families are not mutually exclusive, as “immigrant policies” that explicitly or implicitly deny access to healthcare, for example, certainly constitute a form of internal control. Successful social integration programs may also be considered a form of control since they facilitate the assimilation or coexistence of different cultures with the goal of minimizing social conflict.

Brochmann succinctly summarizes the connections between the two policy approaches: “Whereas the links between legal integration and immigration control are direct and explicit, they are more indirect and implicit for social and cultural integration.”⁷² For analytical purposes, the dichotomy suffices to distinguish restrictive (“protectionist”) norms, which stem from state actors in an intergovernmental world, from liberal (“expansionist”) norms emanating from the more neofunctional alliances between supranational institutions and transnational NGOs. The former have shaped control policy and the latter have driven demands for integrative immigrant policy. The disproportionate influence of restrictive tendencies in policy outcomes reflects and reinforces a “two-speed”⁷³ regional integration process whereby some policy areas are harmonized more rapidly than others.

⁷² Grete Brochmann, “The Mechanisms of Control,” in Grete Brochmann and Tomas Hammar (eds.), *Mechanisms of Immigration Control: A Comprehensive Analysis of European Regulation Policies* (Oxford; New York: Berg, 1999), pp. 1-27, p. 11.

⁷³ Lahav, p. 41.

Themes and Tools of EU Immigration Policy: The Magic of Restriction and Externalization

The immigration policies of Western European countries have become decidedly restrictive since the 1980s and 1990s, driven predominantly by the logic of “stemming” unwanted immigration flows rather than “soliciting” desired immigrants.⁷⁴ The tools of stemming include visa policies, carrier sanctions, buffer zones, and computer databases such as the SIS and EURODAC that gather and store extensive information on aliens and asylum-seekers. The concept of “safe third countries” and the delegation of asylum-processing responsibility to one country through the 1990 Dublin Convention are further evidence of the tendency to stem migration and externalize or export control.⁷⁵ For the sake of parsimony, the peculiar hybrid intergovernmental-supranational immigration “regime” in Europe (if it can be described as such) is reducible to two central themes: (1) the goals of “control” and “social inclusion” set against the reality of both restriction and expansion, and (2) the externalization of control.

Control vs. Social Inclusion

The Limits of Free Movement: A Liberal Democratic “Paradox”?

If the blurred distinction between “high” and “low” politics stems from the “logic” of globalization, it is also certainly rooted in the creation of the common market within the

⁷⁴ Joppke, “European Immigration Policies at the Crossroads.”

⁷⁵ Guiraudon, “The Constitution of a European Immigration Policy Domain,” pp. 266-267.

“Community,” which has driven European integration since the Treaty of Rome.⁷⁶ By the time of the Single European Act (SEA) in 1986, the vocabulary had shifted from a “common” market to the drive for an “internal market,”⁷⁷ which effectively replaced the aversion of war as the dominant rationale for integration. By definition, the creation of an *internal* or “Community” market necessarily implies some geographic and ideational *external* limits to that community. Therefore internal “free movement” entails an implicit logical connection to external border control. Moreover, because market-making is the chief rationale for EU level institutions, the evolution of the “free movement” of “goods, persons, services, and capital”⁷⁸ as related to the market-making competencies of the EU is central to the potential for *supranational* authority in shaping immigration policies.

The salient point here is free movement has not been applied equally to all factors of production. Trade, capital flows, and services can be said to move more or less “freely” within, into, and out of Europe, while the free movement persons remains much more problematic. On the one hand, the incorporation of Schengen into the *acquis communautaire* at Amsterdam effectively solidified the free movement of EU citizens. On the other, internal free movement has been accompanied by increasingly restrictive population control efforts that involve both government actors and non-state agencies such as Europol and airline companies. Such control is leveled almost exclusively at TCNs. In other words, “free movement” and “immigration” have been separated.

⁷⁶ “Treaty of Rome,” 25 March 1957, p. 4 of 80, available <http://www.bmdf.co.uk/rometreaty.pdf>, accessed 10 March 2007.

⁷⁷ “Single European Act,” Section II, Subsection I, Luxembourg, 17 Feb 2006, p. 9 or 23, PDF document available <http://www.eurotreaties.com/eurotexts.html#singleeuropeanact>, accessed 12 March 2007.

⁷⁸ “Treaty of Rome,” 25 March 1957, p. 4 of 80, available <http://www.bmdf.co.uk/rometreaty.pdf>, accessed 10 March 2007.

Whereas the former is institutionalized and carries supranational regulatory capacity, the latter dwells in the intergovernmental realm of cooperation and restriction.

Despite the intergovernmental dominance of EU immigration policy cooperation, the professed ability of EU member states to “control” immigration is questionable and repeatedly inconsistent with reality. Although the rhetoric of control is certainly widespread among European elites, the maturity of the single market and the internal free movement of EU citizens bind participants together in such a way that any singular participating state—acting alone—cannot possibly fully “control” population movement.⁷⁹ This tension represents what some scholars have called a central “paradox” of liberal democracies.⁸⁰

The basic insight behind the “paradox” claim is that the promotion of openness linked to free market objectives clashes with simultaneous efforts to control human movement across borders. This conundrum equally applies to the limits of free movement within the EU and challenges identity on two fronts. On the one hand, to fully open borders would mean running the risk of being overrun by immigrants that “threaten” a specifically *national* sense of identity by straining the welfare system or by fundamentally redefining the cultural, religious, and/or ethnic makeup of the receiving society (not to mention the fact that heightened security sensitivities following the 9/11/01 and 3/11/04 Al-Qaeda attacks have augmented fears about the national security threat associated with Muslim immigrants passing through North Africa). On the other

⁷⁹ Andrew Geddes, p. 15.

⁸⁰ Chantal Mouffe, *The Democratic Paradox* (London, United Kingdom: Verso, 2000); Christian Joppke, “Exclusion in the Liberal State: The Case of Immigration and Citizenship Policy,” *European Journal of Social Theory*, Vol. 8, No. 1 (2005): 43-61; Gallya Lahav, *Immigration and Politics in the New Europe* (Cambridge, UK: Cambridge University Press, 2004); Andrew Geddes, *Immigration and European Integration: Towards Fortress Europe?* European Policy Research Unit Series (Manchester, UK and New York, NY: Manchester University Press, 2000), p. 2.

hand, closing the doors and controlling populations (i.e. establishing “fortress Europe”) would seem to undermine the broader identity of liberal democratic states as guardians of basic individual rights and freedoms related to privacy and prosperity.

However, one should approach this alleged “paradox” with great caution. That a true “paradox” exists at all is likely a dramatization at best and a complete distortion of reality at worst. Border controls are a logical pursuit perfectly compatible with maintaining a liberal democratic identity. Moreover, “control” does not necessarily imply the construction of permanent impenetrable barriers. This leads to another prevalent debate in immigration literature about the actual capacity of liberal democratic states to control immigration beyond a mere pursuit of restrictive measures. The various positions on this question range from the bold proclamation at one extreme that states have “lost control” over immigration⁸¹ and that state policies cannot significantly affect migration flows⁸² to the staunch assertion at the other extreme that “there is no significant *control crisis* present in Europe today in relation to immigration,”⁸³ and instead, it is probably the case that “states’ control policies, more than any other factor, can explain direction, volume and composition of international migration.”⁸⁴

⁸¹ Saskia Sassen, *Losing Control?* (New York: Columbia University Press, 1996);

⁸² Douglas Massey, “March of Folly: US Immigration Policy after NAFTA,” *The American Prospect*, Vol. 9, No. 37 (1998): 22-33; Eiko Thielemann, “Does Policy Matter? On Governments’ Attempts to Control Unwanted Migration,” LSE European Institute Working Paper 2003-2, <http://www.lse.ac.uk/collections/europeanInstitute/workingpaperindex.htm>, accessed 25 March 2007, cited in Gallya Lahav and Virginie Guiraudon, “Actors and Venues in Immigration Control: Closing the Gap Between Political Demands and Policy Outcomes,” *West European Politics*, Vol. 29, No. 2 (March 2006): 201-223, p. 203.

⁸³ Brochmann, “Controlling Immigration in Europe,” in Brochmann and Hammar (eds.), p. 298, emphasis in original.

⁸⁴ Grete Brochmann, “The Mechanisms of Control,” in Brochmann and Hammar (eds.), p. 2.

Interestingly, these seemingly mutually exclusive positions may both hold some validity depending on how narrowly or broadly “control” is defined and how effectively states act on that definition. If “control” is defined loosely to mean capacity to influence and guide migration flows, then it is true that states can indeed “control” population movements. If, on the other hand, “control” is meant to represent the unqualified power of state governments to manage and direct immigration flows absolutely, then the global reach that characterizes current migration trends certainly implies limits on that capacity. Curiously, the desperation to “control” borders seems to have been overemphasized by politicians seeking to reassert their sovereign authority in the face of claims such as the “paradox” contention, leading to the pursuit of policies whose intended outcomes are unattainable.

Policy Failure and “Gaps”

The empirical result of such a situation is aptly summarized in Geddes’ contention that “restrictive policies will continue to co-exist with continuation of certain forms of immigration because liberal states can restrict but cannot control migration.”⁸⁵ The promise of unrealistic goals means that outcomes inevitably stray from the professed intentions, which has led some scholars to embrace idea of a “policy gap”⁸⁶ between restrictive rhetoric and expansive realities. Lahav and Guiraudon identify “gaps” along three dimensions: (1) between public opinion and elite preferences at the time of

⁸⁵ Geddes, p. 22.

⁸⁶ W. Cornelius, P. Martin, and J. Hollifield, “Introduction: The Ambivalent Quest for Immigration Control,” in W. Cornelius, P. Martin, and J. Hollifield (eds.), *Controlling Immigration: A Global Perspective* (Stanford, CA: Stanford University Press, 1994), pp. 3-41.

decision-making and implementation; (2) between principles (i.e. states) and agents; and (3) between international and domestic levels.⁸⁷ The gaps between intended and actual policy outcomes represent policy failure, which results from an inability to accomplish the restrictive goals outlined in the control rhetoric.

The empirical overlap of “*stemming*” and “*soliciting*” policies provides a good example. In practice, the two types of policy are not mutually exclusive and policymakers often employ elements of each simultaneously (even unknowingly).⁸⁸ For example, policies that provide funding to promote economic development, modernization, and job training in source countries form part of the EU agenda to stem unwanted flows by “combating illegal immigration at its source.” However, such policies may actually solicit flows because the small proportion of the local population that receives the benefits of the funding feel ostracized or deprived within their home countries, and these individuals therefore prefer to migrate permanently to a more developed country or region.⁸⁹

The real danger of policy failure is that the rhetoric of control remains even after it is clear that immigration flows continue steadily and possibly increasingly. Following Cornelius *et al.*, the “gaps” caused by policy failure are filled by anti-immigration or

⁸⁷ Gallya Lahav and Virginie Guiraudon, “Actors and Venues in Immigration Control: Closing the Gap Between Political Demands and Policy Outcomes,” *West European Politics*, Vol. 29, No. 2 (March 2006): 201-223.

⁸⁸ *Ibid*, p 260.

⁸⁹ Douglas Massey, “March of Folly: US Immigration Policy after NAFTA,” *The American Prospect*, Vol. 9, No. 37 (1998): 22-33.

racist sentiment.⁹⁰ Furthermore, the rhetoric of control may even *increase* as a result of policy failure as politicians attempt to ease the growing social unrest by (emptily) promising to solve the problem. This leads to even more restrictive goals that therefore have an even greater chance of failure.⁹¹

Externalization of Control: Geographical Spillover?

The free movement conundrum and policy failure or “gaps” are related to the second major theme of EU immigration policy: the externalization of control. Brochmann and Hammar provide a comprehensive analysis of immigration control mechanisms, distinguishing between internal and external controls. In this view, policies directed at the social inclusion (or exclusion) of immigrants are considered control policies in the sense that these policies allow governments to document immigrants and integrate them into society so as to quell social unrest. Brochmann defines “externalization” as the

preventative measures (such as aid, economic transfers, ‘early warning systems’), long-distance control through visa schemes, economic and humanitarian aid in the proximity of conflicts, the establishment of ‘safe areas’ in relation to refugee crises, carrier liabilities, and attempts to encourage sending states to reduce emigration levels.⁹²

⁹⁰ W. Cornelius, P. Martin, and J. Hollifield, “Introduction: The Ambivalent Quest for Immigration Control,” in W. Cornelius, P. Martin, and J. Hollifield (eds.), *Controlling Immigration: A Global Perspective* (Stanford, CA: Stanford University Press, 1994), pp. 3-41.

⁹¹ Geddes, p. 26.

⁹² Grete Brochmann, “The Mechanisms of Control,” in Brochmann and Hammar (eds.), p. 23.

Similar conceptions include “remote control”⁹³ and “(very) remote control.”⁹⁴ As part of her argument against the existence of a “control crisis” in European immigration policies, Brochmann insists that states have developed “steadily higher sophistication in terms of flow control and internal surveillance.”⁹⁵ She cites the externalization of control as one of the most effective control mechanisms, having “become an efficient instrument for reduced immigration” that reconciles the welfare state dilemma, that is, the trade off between human rights norms and realist national self-interest.⁹⁶

The findings of this thesis do not dispute the claim that *European* states possess a significant degree of control capacity, especially through the externalization mechanism. However, my understanding of “externalization” entails the process by which states with the greatest capacity to effectively and humanely “control” immigration shift responsibility *out* to countries with a much lower capacity to do so. The evolution of externalization, so defined, originates in northwestern European “core” and continues with the adoption of comparable control responsibilities in the southern and eastern European countries, which formed the new external frontiers of Europe. At the time that they inherited the control burden, these countries had much less experience with immigration and therefore initially had less capacity for control. Externalization to the frontiers of Europe then becomes *exportation* control norms as the EU (with Spain

⁹³ Aristide R. Zolberg, “Guarding the Gates,” Online paper available at <http://www.newschool.edu/icmec/guardingthegates.html>, accessed 20 March 2007.

⁹⁴ Michael Samers, “An Emerging Geopolitics of ‘Illegal’ Immigration in the European Union,” *European Journal of Migration and Law*, Vol. 6 (2004): 27-45, p. 29.

⁹⁵ Brochmann, “Controlling Immigration in Europe,” in Brochmann and Hammar (eds.), p. 298.

⁹⁶ Ibid.

playing a leading role) shifts responsibilities further south through agreements with African and post-Soviet nations that have even less capacity to control migration.

Therefore, if the “control crisis” is not a fundamental problem for Western liberal democracies, it may well be a major problem for many of the third countries that have been incorporated into the EU control framework. Moreover, the treatment of persons—including immigrants—that reside within European territories certainly warrants a substantial concern because “social exclusion” and human rights norms have become embedded in European societies and embraced and disseminated by EU institutions and other international organizations such as the United Nations. Hence, it is likely that the conceptualization of the “externalization of control” adopted in this thesis cannot suffice on its own as a long-term solution.

Geddes’ depiction of an emergent EU immigration regime (adapted and updated in Figure 3.1) roughly captures this conception of externalization in a useful visual representation consisting of a series of concentric circles with different policy priorities and responsibilities. States at the core have the highest capacity for control and the most developed institutions for protecting migrants’ rights. Moving out from the core, both control capacity and migrant protection capacity diminish. In this sense, the countries with the least experience controlling immigration are both compelled and socialized to internalize the salience of European immigration politics as they are drawn into the circle of burden by more powerful actors. This process raises interesting questions about the Europeanization of immigration policy. Will the EU mantra of “addressing the root causes of illegal immigration” incorporate transit and source countries into a European regime? Will such third countries therefore also be “Europeanized”?

Figure 3.1 Emergent EU Immigration and Asylum Policy

Circle 1

Original 'Schengenland' (plus the UK and Ireland); northwestern "core"

Policy priorities:

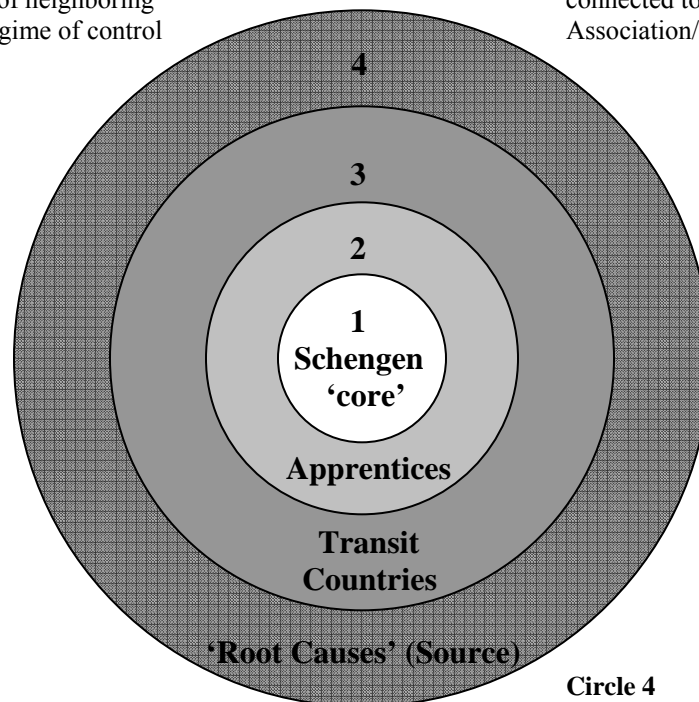
- elaboration of restrictive policies
- incorporation of neighboring states into a regime of control

Circle 2

'Apprentices' (i.e. "new comers") in central, eastern, and southern Europe

Policy priorities:

- adoption of restrictive frameworks connected to Accession/ Association/socialization



Circle 3

'Transit countries': Turkey and north African and former Soviet States

Policy Priorities:

- transit checks and action against illegal immigration
- incorporation within a 'temporary protection' system for refugees

Circle 4

'Root causes' (source countries): China, Middle Eastern, African, and Latin American states

Policy Priorities:

- the 'targets' of the control regime
- vague commitment at the EU level to a 'root causes' approach to tackling migration

Source: Andrew Geddes, *Immigration and European Integration: Towards Fortress Europe?* European Policy Research Unit Series (Manchester, UK and New York, NY: Manchester University Press, 2000), p. 106 (updated and adapted).

Following Tampere, externalization of control has experienced greater supranational involvement. Readmission agreements, in particular, have become a major feature of the EU's external relations, demonstrating an increasing connection between immigration ("illegal" immigration to be precise) and foreign policy. In April 2006, EC Special Representative of Readmission Policies and Deputy Director-General of the External Relations DG of the Commission Karel Kovanda expressed that because of technical expertise, "negotiating [readmission] agreements...is something best left to specialists from the Justice, Freedom and Security Directorate-General of the European Commission."⁹⁷ At the same time, Kovanda added, "But once an agreement is negotiated, the Community responsibility is over. Its day-to-day implementation, the actual decision about sending a person back and the actual operation it involves—all this is entirely within the competence of our Member States."⁹⁸ Externalization of control is an excellent example of a policy development that portrays a division of labor between supranational and intergovernmental competencies and blends control and restriction with humanitarian goals.

Conclusion: The Sorcerer's Syllabus

What explains the lopsidedness of cooperation in a "two-fold" issue area such as immigration? The short answer, in a word, is "power." The key actors in the construction of control policy were interior ministers and law-and-order bureaucrats,

⁹⁷ "Eurasylum's Monthly Policy Interviews: Karen Kovanda, EC Special Representative for Readmission Policies; Deputy Director-General of the External Relations DG of the European Commission," *Eurasylum*, Online, April 2006, available <http://www.eurasylum.org/Portal/DesktopDefault.aspx?tabindex=2&tabid=19>, accessed 10 February 2007.

⁹⁸ Ibid.

while NGOs and transnational immigrants' rights lobbyists drove the agenda for social inclusion. Without direct access to state resources, transnational lobbyists have made an important but secondary impact. Certainly, their appeals have resonated with the Commission and other supranational bodies seeking to enhance their own authority *vis-à-vis* state executives, but with lesser clout than state actors such pleas have struggled to significantly impact policy decisions.

The fact that immigration and asylum cooperation remains enmeshed in a peculiar, “two-speed” hybrid supranational-intergovernmental framework (with a notable bias in the intergovernmental direction) is testimony to the strong (constructed) relationship between immigration and national identity and the vestiges of state power. And yet, the location of this power cannot be said to exist entirely “within” the state as intergovernmentalists assume. Rather, power is located across, among, around, beneath, and beyond states. Power is not one-dimensional, static, nor necessarily material. Socialization dynamics and “social power”—bargaining power, persuasion, eloquence, charisma, normative and ideological appeal—are also extremely important at the individual-, network-, state-, and regional levels. Social power and material power complement each other in ways that are constantly evolving, at once channeled through the conduits of institutional precedents while also guiding present and future institution-building efforts.

In addition, lopsidedness stems from the fact that, while all states share the incentive to regulate their borders to some extent, preference convergence in immigrant policy is more problematic because of wide variations in the demographic, economic, cultural, political, social, and historical composition of different states. This last point is

particularly relevant when comparing southern European countries—which until the late-1980s were “emigration countries”—to their northern neighbors that already had many decades of experience as “immigration countries.” Departing from this comparison Chapter Four, “Sorcery 101: Fortifying Europe’s ‘Soft Underbelly’” evaluates the limits of “Europeanization” effects on the domestic institutions, politics, and policies of Spain as related to immigration. The agents and structures of immigration policies in Western European countries reveal the overarching themes of (1) control and social inclusion vs. restriction/expansion, and (2) the externalization of control. Together, the trends, tools, rationales, and themes of European immigration policies unveiled in this chapter constitute the syllabus from the young Apprentice may draw lessons, or so hopes the Sorcerer.

CHAPTER FOUR

SORCERY 101: FORTIFYING EUROPE’S “SOFT UNDERBELLY” THE BOUNDARIES OF EUROPEANIZATION IN SPAIN

Against the backdrop of the regional underpinnings of European immigration policy sketched in Chapter Three, the southern European experience provides many fascinating cases to investigate. Having only recently been born into existence, immigration policies in the southern countries afford an opportunity to capture the effects of regional structures on fresh and malleable sets of domestic politics, policies, and institutions. Illuminating a remarkable contrast with the tendencies of established “immigration countries” in the Northwest, immigration policies on the EU’s southern flank are marked by repeated amnesties and high numbers of irregular immigrants, leading many scholars and policymakers to assume that “the border control of southern European countries is in a permanent state of crisis.”¹ Within the peculiar European sub-region of “Mediterranean exceptionalism,”² the Spanish case is even more deeply anomalous. On a continent where most societies—including Spain’s Mediterranean neighbors Italy and Greece—have been exposed to the looming specter of the anti-immigrant (and often anti-Europe) extreme-right, the apparent immunity to such movements in Spain thus far is

¹ Guiseppe Sciortino, “Planning in the Dark: the Evolution of Italian Immigration Control,” in Brochmann and Hammar (eds.), pp. 233-259, p. 233.

² Ibid, p. 234.

astonishing.³ The Spanish exemption from xenophobia is particularly extraordinary given the combined experience high unemployment and escalating immigration—often considered the magic formula for anti-immigration sentiment⁴—since Spain became an “immigration country” in the late 1980s.

Overall, immigration policy dynamics in Spain exhibit a dual nature that reflects the dynamic between the specific national and the “European” one. The impulse toward more relaxed and liberal immigration policies in Spain as compared with the northwestern European countries is linked to a host of factors plausibly including inexperience, the structural imperatives of a labor market driven by an informal tertiary sector, the institutional and ideational effects of recent democratic consolidation, the haunting and very recent memory of a dangerous extremism, and an enduring historical “emigration” identity conducive to immigrant sympathy.

At the same time, Spain’s (re)connection with Europe since the mid-1980s has produced profound functional and ideational consequences. First, elements of a “Fortress Europe” mentality have arguably crept into the foundations of Spanish policymaking as a result of the imperatives of the common market and the northwestern European construct of immigration as a security “threat.” Second, Spanish elite advocacy of liberal human rights norms and the commitment to “fighting illegal immigration at its source” are closely related to the EU level agenda surrounding integrative immigrant policy. Ultimately, the Spanish case exhibits clear influences of both major EU immigration policy themes identified in Chapter Three: (1) “control” and “social inclusion” goals

³ Omar G. Encarnación, “The Politics of Immigration: Why Spain is Different,” *Mediterranean Quarterly* (Fall 2004): 167-185, p. 169.

⁴ Encarnación, “The Politics of Immigration: Why Spain is Different,” p. 170.

alongside the coexistence of both restrictive and expansive forces, and (2) the externalization of control. In order to set the stage for analysis of the externalization component in Chapter Five, this chapter expands upon the first theme by examining the relationship between domestic variables in the Spanish case and the regional context.

The Evolution of Spanish Immigration Policy: Reconciling EU Restriction and Domestic Expansion

Compared with the experiences of the northwestern “core,” the southern European story passes some common landmarks, although the experience itself is conditioned by a markedly different perspective. Most obviously, at the time of writing the short history of Spanish immigration policy encompasses a mere two decades. Until the mid-1980s, low-skilled Spaniards sought jobs in the more prosperous countries to the North. As part of the southern European “model,” Spain was a country of *emigration*. Only in the late 1980s and early 1990s did it become clear that the contours of labor migration had shifted, making Spain the new home of a substantial immigrant population and a potential destination for many more. Since the realization of this largely unexpected shift, the majority of immigration to Western Europe has been absorbed by the southern European countries (and Germany).⁵ Within this context, the development of Spanish immigration policy since 1985 exemplifies the complex interaction between regional “external” influence and domestic “internal” interests and identities. Interestingly, in the Spanish case these two forces have often intricately intertwined because the reconnection with “Europe” has factored prominently in the (re)construction of national identity in post-

⁵ R. King and K. Rybaczuk, “Southern Europe and the International Division of Labour: From Emigration to Immigration,” in R. King (eds.), *The New Geography of European Migrations* (London: Belhaven Press, 1993), p. 177.

Franco Spain. A brief discussion of the recent historical context from the Spanish perspective helps illustrate this point.

“The Spanish Miracle” and Beyond:
Modernization and the Return to Europe

The charge that “Europe ends at the Pyrenees, and Africa begins there”⁶ has extensive implications beyond mere geography. Temporarily overlooking the intermittent attempts (and failures) at democratic consolidation dotting the modern timeline of Spanish history,⁷ one can accurately portray the combined effects of the collapse of the Spanish Empire in the nineteenth century and the devastation of the 1936-1939 Spanish Civil War as having isolated Spaniards politically, socially, culturally, and economically from “Europe”—and indeed, from the Western world at large. The emergence from solitude began in the final decades of Franco’s regime when the Opus Dei technocrats initiated a campaign of economic and political liberalization. As part of the so-called “Spanish miracle”⁸ that followed, Spain enjoyed a massive economic boom between 1959 and 1973, catapulting the country from underdeveloped to developed status within a few short decades.

⁶ This phrase, credited to French diplomat Charles Maurice de Talleyrand-Périgord (1754-1838), captures the long-held European attitude toward Spain as different and even inferior. See Howard J. Wiarda, “Spain 2000: A Normal Country?” *Mediterranean Quarterly*, Vol. 11, No. 3 (Summer 2000): 30-61, p. 30; Overview in Howard J. Wiarda, *Politics in Iberia: The Political Systems of Spain and Portugal* (New York: HarperCollins, 1993).

⁷ The most notable is the failure of the Second Republic, which culminated in the onset of the 1936-1939 Spanish Civil War, the victory of General Francisco Franco, and the subsequent solidification of an authoritarian regime that hijacked Spanish society until Franco’s death in 1975.

⁸ Omar G. Encarnación, “Democracy and Federalism in Spain,” *Mediterranean Quarterly* (Winter 2004): 58-74, p. 65; For an overview, see Kenneth Maxwell and Steven Spiegel, *The New Spain: From Isolation to Influence* (New York: Council on Foreign Relations Press, 1994).

The “miracle” was amplified following the death of Franco in 1975. In a single decade, Spain rapidly consolidated a successful democratic transition between 1977 and 1979, adopted a remarkable federal system under a democratic constitution in 1978, joined NATO in 1986, and entered the European Community that same year. In addition to the sense of national pride achieved in the process, the democratic transition and the “return to Europe” also carried important baggage. Having undergone the additional switch from a labor-sending country to a modernized, labor-receiving one, the Spanish government faced the formidable challenge of constructing a coherent immigration policy from scratch.

European Accession: Learning the Magic of “Control”

The first two laws on asylum and immigration in Spain were passed respectively in 1984 and 1985⁹—before immigration had become a visible reality, let alone a salient domestic issue. The obligatory prerequisites for EC membership¹⁰ drove the hasty adoption of the 1985 legislation in particular, thereby infusing in Spain’s first immigration law existing EC members’ demands to conform to “European” standards. The 1985 *Ley Orgánica sobre los Derechos y Libertades de los Extranjeros* (Organic Law on the Rights and Freedoms of Foreigners), commonly referred to simply as the *Ley de Extranjería* (Foreigners’ Law), provides convincing evidence that the northwestern

⁹ Asylum legislation is based on the Law 5/1984 of 26 March 1984 on Right of Asylum. Immigration legislation was based in the pre-accession Ley de Extranjería (Aliens Act 7/1985) of 1 July 1985. From “Legislation: Spain,” *Odysseus Network*, Online, available <http://www.ulb.ac.be/assoc/odysseus/leggispuuk.html>, accessed 21 March 2007.

¹⁰ Spain acquired EC membership on January 1, 1986.

“core” coercively incorporated Spain into the prevailing control framework so as to restrict entry for non-EC nationals.

Indeed, Wayne Cornelius has concisely argued that the *Ley de Extranjería* was “almost *entirely* the result of external pressure associated with entry into the EC.”¹¹

Despite the integrative social inclusion themes suggested by its title, the law elaborated a restrictive approach that included almost nothing relating to the rights of immigrants or their successful integration into the host society. In fact, the law was not even intended to strengthen border controls. Rather, its main purpose was to enhance the government’s power to manage the illegal immigrants residing within Spain, including mechanisms such as deportation and other repressive measures.¹²

According to Arrango, the original 1985 law privileged Spanish workers and significantly limited the rights of foreigners,¹³ reflecting an underlying “police approach” logic that did not truly amount to an immigration policy, properly understood.¹⁴ Instead, the *Ley de Extranjería* was merely a negotiation gesture, a product of circumstance—that is, “a Europe that had been erecting migration barriers since the mid-1970s and a Spain bent on joining it.”¹⁵ As part of the Accession process, the powerful “core” compelled

¹¹ Wayne Cornelius, “Spain: The Uneasy Transition from Labor Exporter to Labor Importer,” in W.A. Cornelius, P.L. Martin, and J.F. Hollifield (eds.), *Controlling Immigration: A Global Perspective* (Stanford: Stanford University Press, 1994), pp. 331-369, p. 360, emphasis added.

¹² Encarnación, “The Politics of Immigration: Why Spain is Different,” p. 175.

¹³ Ministro del Interior, *Líneas Básicas para una Política Española de Extranjería: Comunicación del Gobierno al Congreso de los Diputados*, (Madrid, Ministro del Interior, 1990) , cited in Arrango 2000, p. 266.

¹⁴ Joaquín Arrango, “Becoming a Country of Immigration at the End of the Twentieth Century: The Case of Spain,” in Russell King, Gabriella Lazaridis, and Charalambos Tsardanidis (eds.), *El Dorado or Fortress? Migration in Southern Europe* (Houndsmills, Basingstoke, Hampshire, New York, NY: Palgrave Macmillan, 2000), pp. 253-276, p. 265.

¹⁵ Joaquín Arrango, in King *et al.* (eds.), p. 265.

Spain to adopt a cursory commitment to immigration control that suited “Europe,” signifying the “Europeanization” of domestic immigration policy in the most crude and direct sense of the term. The initial steps in Spanish immigration legislation—of which the 1985 was a major part—can then be understood as a broader modernizing project attached to the EC membership. This drastic and direct “Europeanization” of domestic policies and institutions created a steep immigration policy learning curve riddled with implementation problems.¹⁶

An Immigration Policy Cauldron Sweetened by Spanish Spices

When it became clear by the end of the 1980s that substantial stocks of migrants were choosing to permanently settle in Spain, Spanish authorities recognized the need for a functioning immigration regime. Subsequent steps toward achieving this goal revealed different attitudes more favorable to immigrants and immigration.¹⁷ In a departure from the Northern countries’ strict focus on controlling flows and managing stocks, during the early 1990s Spanish legislation began to exhibit cautious steps toward the social inclusion and integration of immigrants into Spanish society. A variety of unique domestic factors help account for this sympathetic stance.

¹⁶ Martin Baldwin-Edwards and Martin Schain (eds.), *The Politics of Immigration in Western Europe* (London: Frank Cass, 1994).

¹⁷ R. Aragón Bombín, “Diez Años de Política de Inmigración: Implicaciones de las Distintas Áreas de Gestión: Educación, Cultura, Salud, Vivienda, Empleo y Servicios Sociales,” *Migraciones* 0 (1996): 45-60.

Democratic Transition: Institutional and Ideational Implications

First, Spain's exemplary democratic transition left an institutional legacy comprising both a formal arrangement of domestic political institutions and an informal "political culture" that served to alienate political extremists and constrain opportunities for their involvement in the political process. Numerous institutional and identity components permeate the discussion of this first factor. Formally, under the 1978 Constitution the Spanish state is a decentralized quasi-federal system¹⁸ comprising fifty provinces organized into seventeen separate regional governments,¹⁹ which retain authority within corresponding "autonomous communities" (*Comunidades Autónomas*, CCAA plural, CA singular) in addition to co-decision power at the national level.

Several CCAA—most notably Catalonia, the Basque Country, and Galicia—represent distinct and often separatist nationalisms distinguished along ethnic and linguistic lines. Given the strongly decentralized institutions and identities within the Spanish state, it is extremely unlikely that a nativist anti-immigration movement could procure nationwide support.²⁰ Moreover, with emancipation from *Franquismo* came a more general rejection of the violent and radical political experiences of modern Spanish history, which

¹⁸ It has even been described as decidedly *federal*, even though Article 145 of the Spanish Constitution explicitly affirms otherwise.

¹⁹ Across the strait of Gibraltar, Ceuta and Melilla form two additional "autonomous cities" (*ciudades autónomas*) in the Spanish state.

²⁰ Encarnación, "The Politics of Immigration: Why Spain is Different," p. 180.

structures a moderate “political culture”²¹ associated with liberal democratic values and building a healthy civil society.²²

Together, these formal and informal domestic institutions facilitate a tendency towards political moderation, a claim supported by citizens’ political ideologies and in general election results. Survey data from 1976 to 2000 in which respondents self-identified their position along the left-right continuum show that Spaniards have consistently considered themselves to be politically moderate over time. On a numerical scale from 1 to 10 representing the political spectrum from left to right, the average response displayed very little deviation from the center (roughly 6 percent). The extreme values ranged from 5.6 in 1976 to 4.4 in 1981 and then remained relatively constant until a slight climb during the 1990s to reach 4.9 in 2000.²³ Moreover, almost all responses fell under the categories “center-left,” “center,” and “center-right.” Very few respondents selected simply “left” or “right”: the percentage of “left” responses peaked at an outlier value of 10 percent in 1979 and again in 1989, and on the percentage on the “right” never rose above 3 percent after 1978.²⁴

²¹ Omar G. Encarnación, “The Politics of Immigration: Why Spain is Different,” *Mediterranean Quarterly* (Fall 2004): 167-185, p. 178.

²² Joaquín Arrango, “Los Españoles y la Política 1982-1994,” in Salvador García-Atance (ed.), *Historias de una Década: Sistema Financiero y Economía Española 1984-1994* (Madrid: AB Asesores, 1994), pp. 61-80.

²³ Selected from data collected by Mariano Torcal (Director of Political Science, Universitat Pompeu Fabra, Barcelona, Spain). Data for 1976-1980 and 1982 obtained from DATA surveys, cited in Juan J. Linz, Manuel Gómez Reino, Francisco A. Orizo, and Darío Vila, *Informe Sociológico sobre el Cambio Político en España, 1975-1981* (Madrid: Euramérica, 1981); Richard Gunther, Giacomo Sani, and Goldie Shabad, *Spain After Franco: The Making of a Competitive Party System* (Berkeley, CA: University of California Press, 1986); and Juan J. Linz and José Ramón Montero (eds.), *Crisis y Cambio: Electores y Partidos en la España de los Años Ochenta* (Madrid: Centro de Estudios Constitucionales, 1986); data from all other years obtained from CIS databases.

²⁴ Ibid.

Moreover, every general legislative election during Spain's short democratic history has awarded center parties an overwhelming majority of seats in Parliament. Barring the two transitional elections in 1977 and 1979,²⁵ the center-majority since 1982 is represented by two major parties—the center-left Spanish Socialist Workers' Party (*Partido Socialista Obrero Español*, PSOE) and the center-right Popular Alliance/Popular Party (*Alianza Popular*, AP/*Partido Popular*, PP).²⁶ Table 4.1 displays the distribution of seats in the Spanish Congress (*Congreso de Diputados*) between 1982 and 2004.²⁷ Notably, PSOE and AP/PP consistently won between 80 and 90 percent of seats in each of the seven Congresses convened during this time period. These figures are not as extreme as the stronger bipartisanship produced by more strictly majoritarian electoral systems like the British one for example (between 1950 and 1970 the Conservative Party and the Labor Party together won 87.5 percent of the vote and 98 percent of the seats in the House of Commons).²⁸

²⁵ In total, there were nine general elections since Franco's death: the seven included here, and two previous ones in 1977 and 1979. These earlier elections took place during democratic transition and consolidation respectively, and involved a more fragmented party system requiring leadership by the Democratic Center Union (*Unión de Centro Democrática*, UCD). Therefore, the figures referenced here begin in 1982.

²⁶ The *Alianza Popular* was the right-wing party in the elections between 1977 and 1986. Under José María Aznar, the AP sought to capture the center in order to compete with PSOE after the fall of the UCD. The more center-right party changed its name to *Partido Popular* before the 1989 elections.

²⁷ The Spanish Parliament is officially bicameral, consisting of a Senate (*Senado*) and a Congress (*Congreso de Diputados*). Incidentally, PP and PSOE have also dominated representation in the Senate. However, focusing on the *Congreso* suffices because it is more powerful than the Senate in reality. For more on "asymmetric bicameralism" in Spain, see Arend Lijphart, *Patterns of Democracy* (New Haven: Yale University Press, 1999), p. 30.

²⁸ Arend Lijphart, *Patterns of Democracy* (New Haven: Yale University Press, 1999), p. 13.

Table 4.1 General Elections to the Congreso de Diputados, Seat Allocation by Party (1982-2004)

Party/ Coalition	1982		1986		1989		1993		1996		2000		2004	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
PSOE	202	57.7	184	44.3	175	39.9	159	39.1	141	38.0	125	34.7	164	42.6
AP/PP^a	107	26.5	105	26.1	107	26.0	141	35.0	156	39.2	183	45.2	148	37.6
PCE/IU^b	4	4.0	7	4.5	17	9.1	18	9.3	21	10.7	9	6.1	5	5.0
UCD^c	11	6.5	-	-	-	-	-	-	-	-	-	-	-	-
CDS^d	2	2.9	19	9.2	14	8.0	-	-	-	-	-	-	-	-
CCAA/ other	24	6.9	35	10.0	23	6.6	32	9.1	32	9.1	33	9.4	33	9.4
Total	350	100	350	100	350	100	350	100	350	100	350	100	350	100
PSOE + AP/PP	309	88.3	289	82.6	282	80.6	300	85.7	297	84.9	308	88.0	312	89.1

^a AP with various coalitions until 1986, and PP since 1989.

^b The Spanish Communist Party (*Partido Comunista Español*, PCE) until 1986, and the United Left (*Izquierda Unida*, IU) since 1989.

^c The Democratic Center Union (*Unión de Centro Democrática*, UCD) headed the government during democratic transition under the leadership of Adolfo Suárez. Internal divisions weakened the party and Suárez left in 1981. The resultant power gap hastily filled by Calvo Sotelo, temporarily ousted in an unsuccessful military coup attempt that same year. The UCD disbanded completely soon thereafter.

^d After leaving the UCD, Suárez formed the Democratic and Social Center (*Centro Democrática y Social*, CDS), which competed in the 1982 elections until dissolving in 1989.

Sources: Selected from data spreadsheets compiled by Mariano Torcal (Director of Political Science, Universitat Pompeu Fabra, Barcelona, Spain), drawing from Linz (1980),²⁹ Linz and Montero (2001),³⁰ Junta Electoral Central, Congreso de los Diputados (available www.congreso.es/elecciones, accessed 10 November 2006) y Dirección General de Política Interior, Ministerio del Interior (available www.elecciones.mir.es, accessed 10 November 2006).

Nevertheless, the consistently high level of representation for two generally moderate parties is exceptional in the Spanish case given that the other 10 to 20 percent of seats are fragmented among dozens of smaller parties representing regional and other interests.

In addition to the preferential and ideational effects on immigration politics at the domestic level, the institutional reorganization of Spain is also connected to European integration. Especially after 1994, Spanish decision-making structures experienced significant Europeanization when the CCAA and the central government agreed to share

²⁹ Juan Linz, "The New Spanish Party System," in Richard Rose (ed.) *Electoral Participation* (Beverly Hills, CA: Sage, 1980), pp. 101-190.

³⁰ Juan J. Linz and José Ramón Montero, "The Party Systems of Spain: Old Cleavages and New Challenges," in Lauri Karvonen and Stein Kuhnle (eds.), *Party Systems and Voter Alignments Revisited* (London/New York: Routledge, 2001).

“co-decision power” on matters related to Europe.³¹ Because direct CCAA participation in the Council of Ministers would be neither “constitutional nor practical,”³² European integration has contributed to the institutionalization of a peculiar form of intergovernmentalism *within* Spain that melds a sub-national regional dimension with a supranational European one. The European dimension further complicates Spanish “nationality” because distinct CCAA identities imply varying degrees of ideational connection and political engagement with Europe.

In Catalonia for example, the cultivation over many centuries of a profound affinity with “Europe” is captured in the famous phrase “Cataluña es europea desde la Nochebuena del año 800.”³³ When Spain joined the EC, iconic Catalan politician Jordi Pujol described adhesion as a “historical rectification” that had returned Catalonia to its rightful home.³⁴ In the new millennium the Catalans’ EU approval ratings top 86 percent,³⁵ and Catalan politicians’ outspoken support for European integration even prior to EC membership continues to foster active engagement in European level politics.

A History of Emigration

The second domestic factor underpinning domestic policy framing is an established emigration identity that naturally shaped domestic attitudes towards immigrants suddenly

³¹ Tanja A. Börzel, *Regions in the European Union: Institutional Adaptation in Germany and Spain* (Cambridge University Press), p. 2.

³² Casimir de Dalmau i Oriol, “Catalunya a la Unió Europea: Un Procés Obert?” *Patronat Català Pro Europa* (Barcelona, juny 2003), p. 21.

³³ “1982-2002: 20 ANYS d’Integració Europea a Catalunya,” *Patronat Català Pro Europa* (Barcelona, 28 d’octubre de 2002), p. 15.

³⁴ *Ibid.*, p. 17.

³⁵ Casimir de Dalmau i Oriol, p. 43.

destined for Spain. Pro-immigrant Spanish actors found success by “reminding the public of the time when other countries were willing to open their doors to Spaniards fleeing poverty and war.”³⁶ In the twentieth century 6 million Spaniards vacated the Iberian Peninsula, destined first for the Americas and later migrating to Northern Europe through post-War guest worker programs in France, Germany, and Switzerland.³⁷ The historical identity as an emigration country also had institutional effects. Tellingly, the foundations of government immigration departments created in the late 1980s and early 1990s stood directly on the shoulders of existing institutions previously concerned with Spanish *emigration*. For example, the *Instituto Español de Emigración* (Spanish Institute of Emigration) became the General Directorate for Migrations.³⁸

The historical memory of an emigration identity may also help explain Spanish civil society actors’ overwhelmingly proactive and rapid adoption of a pro-immigrant agenda. Charities and human rights groups such as SOS Racismo have helped educate the public about immigration.³⁹ Similarly, the major Spanish trade unions—the *Unión General de Trabajadores* (General Union of Workers, UGT) and the *Comisiones Obreras* (Workers’ Commissions, CCOO)—have created and managed training centers for immigrant workers and refugees and have also lobbied extensively for anti-discrimination measures and the improvement of work conditions for immigrants.⁴⁰ Spanish unions’ enthusiastic

³⁶ Encarnación, “The Politics of Immigration: Why Spain is Different,” p. 176.

³⁷ Ibid., p. 175.

³⁸ Arrango, in King *et al.* (eds.), p. 267.

³⁹ Omar G. Encarnación, “Civil Society and the Consolidation of Democracy in Spain,” *Political Science Quarterly*, Vol. 116, No. 1 (Spring 2001): 53-79, p. 63; Omar G. Encarnación, “The Politics of Immigration: Why Spain is Different,” *Mediterranean Quarterly* (Fall 2004): 167-185, p. 176.

⁴⁰ Encarnación, “The Politics of Immigration: Why Spain is Different,” p. 176.

adoption of pro-immigrant programs stands in direct opposition to the political positions of unions in most other European countries, which see immigrant workers as competing with domestic labor.⁴¹

The National Economy: Structural Necessities and Welcomed Prosperity

A third domestic factor may help explain Spanish unions' uncharacteristic preferences. Structural differences between the "old" and "new" immigration countries mean that the growth and development of the Spanish economy depends on tourism and immigration to an extent unmatched by any country to the North (this, of course, would change in the event that Spain reaches maximum absorption capacity). In fact, Spanish policymakers fully recognized that the successful development of the Spanish economy *required* foreign labor at the exact moment that the northwestern European countries began elaborating increasingly stringent controls—and pressuring southern Europeans to follow suit (see Chapter Three to revisit the three-phase historical overview of immigration to northwestern Europe). As one Spanish immigration official commented,

Other EC member states talk about the need for a zero immigration policy, but this is completely unrealistic for Spain... We want them to recognise Spain's objective need for foreign labour. Spaniards won't do certain kinds of jobs, and we need to channel foreign labour to meet those needs.⁴²

Specifically, Spain required foreign labor to fill jobs in the service sector (where two-thirds of immigrant workers are employed), and in the agricultural, construction, and

⁴¹ Lorenzo Cachón Rodríguez, "Marco Institucional de la Discriminación y Tipos de Inmigrantes en el Mercado de Trabajo en España," *Revista de Investigaciones Sociológicas*, Vol. 69 (1995): 105-124.

⁴² Wayne Cornelius, "Spain: The Uneasy Transition from Labor Exporter to Labor Importer," in W.A. Cornelius, P.L. Martin, and J.F. Hollifield (eds.), *Controlling Immigration: A Global Perspective* (Stanford: Stanford University Press, 1994), pp. 331-369, p. 363, quoted in Geddes, p. 25.

manufacturing sectors (the remaining third).⁴³ The sectoral breakdown of immigrant labor in Spain raises another avenue of divergence between southern and northern European preferences. Whereas countries in the “core” generally prefer skilled immigrants, the Spanish economy structurally favors *unskilled* workers,⁴⁴ significantly affecting the range of policy outcomes. For example, the Spanish government actively recruits Moroccan labor through seasonal agreements in order to help Spanish farmers fill approximately 350,000 job openings each year.⁴⁵

Indeed, it would be difficult to overstate the value of immigrant labor (especially unskilled labor) to the Spanish economy. Spanish farmer Antonio Villegas Navarro acknowledged in 2000 that the “Moroccans—and immigration in general, are very important to [Spanish farmers]. This is the base of our economy.”⁴⁶ Domestic elites also understand well the integral and imperative function of immigration in the Spanish labor market. In November 2006, the Economic Office of the Prime Minister (*Oficina Económica del presidente del Gobierno*) conducted a study on the economic impact of immigration in Spain since 1996.

As acting director of the Economic Office, Miguel Sebastián announced that immigration had been “very beneficial” to the Spanish economy, specifying that foreign workers had accounted for 50% of GDP (*Producto Interior Bruto*, PIB) growth over the

⁴³ Arrango, in King *et al.* (eds.), p. 263.

⁴⁴ Joppke, p. 275.

⁴⁵ *Migration News Sheet*, November 1999, cited in Joppke, p. 275.

⁴⁶ Peter Biles, “Spain’s Immigrants Demand More Rights,” *BBC News Europe*, [periodical on-line], 25 February 2000, available <http://news.bbc.co.uk/1/hi/world/europe/656612.stm>, accessed 10 February 2007.

previous five years and 30% over the last decade.⁴⁷ Sebastián further emphasized that immigrants had “*improved* employment opportunities for Spaniards and *reduced* the structural unemployment rate, which cannot be explained by the normal economic cycle.”⁴⁸ In addition, the study found that immigration had contributed 50% of the budget surplus during the same time period and that—contrary to popular belief—immigration had not reduced living standards, but had rather facilitated positive per capita GDP growth by at least 0.3 points above average.⁴⁹

Life Lessons in Sorcery: Spanish Immigration Policies since the 1990s

The analysis of the domestic case has thus far delineated some of the key underpinnings of domestic actors’ preferences and identities regarding immigration, and has also briefly traced the initial developments of Spanish immigration policymaking to EC Accession. The domestic political/institutional, historical/cultural, and social/economic factors discussed above lead one to expect Spanish actors’ logistical preferences and ideational attitudes towards immigration to differ fundamentally from security-influenced preferences of actors’ to the North. The contrast between these two sets of preferences guides our attention to potential discrepancies in the interpretation, internalization, and implementation of the “core” security mentality refracted through domestic lenses. The Spanish case suggests that such discrepancies are particularly

⁴⁷ Informe de la Oficina Económica del Gobierno, “La Mitad del Crecimiento del PIB de los Últimos Cinco Años se Debe a la Inmigración,” *El Mundo* [periodical on-line] 16 November 2006, available <http://www.elmundo.es/mundodinero/2006/11/15/economia/1163604388.html>, accessed 17 November 2006.

⁴⁸ *Ibid*, emphases added.

⁴⁹ *Ibid*.

pronounced in countries whose political and societal actors did not participate significantly (either by choice or circumstance) in the initial issue-framing process, as Spanish actors were not socialized by the same processes as actors in the “core.”

Problems of interpretation, internalization, and implementation complicate cooperation and challenge harmonization (i.e., “Europeanization”) of immigration policies. At the same time, the prominent “peculiarities” of the Spanish case set the stage for the principle aim in the pages to follow—that is, to evaluate the impact of the regional structural context on domestic policymaking in Spain. Far from problematic, the fact that the Spanish immigration politics case is an “outlier” along a wide range of preferential and ideational dimensions facilitates greater control in the analysis of regional effects by ruling out several plausible alternative explanations at the domestic level.

To summarize, (1) workers and elites agree that immigration is not only beneficial but necessary for the Spanish economy; (2) unskilled immigrant labor is mostly confined to the tertiary sector and other jobs that do not pose a threat to domestic labor supply and demand; (3) no significant anti-immigrant/immigration sentiment exists in domestic public opinion; (4) state actors and civil society groups both reflect generally favorable attitudes towards immigrants, in connection to national historical memory and identity; and (5) formal political institutions of and an informal “political culture” provide constraints on extreme-right anti-immigrant/immigration movements seeking mass appeal.

Given Spanish political actors’ preferences and identities, it is unlikely that domestic factors alone can explain the restrictive and control-oriented path of Spanish immigration policy-making since the 1990s, directing our attention to broader regional dynamics in

order to uncover the full range of factors underpinning policy formation at the Spanish level. The remainder of this chapter therefore advances a detailed analysis of Spanish immigration policies since the 1990s and traces domestic developments to the structural effects of regional integration dynamics.

Agenda Conflict: “Control” vs. “Social Inclusion”

Recognizing that Spain had become an “immigration country,”⁵⁰ in 1990 the Spanish Interior Ministry issued a Memorandum detailing government plans to create a proper immigration policy, which was adopted unanimously in a March 1991 Parliamentary Declaration entitled “Foreigners in Spain: Policy Guidelines.”⁵¹ The official position outlined in the 1991 Declaration consisted of two components: (1) improvement in government control, and (2) the social integration of immigrants. Both agendas reflected a tension between domestic actors’ liberal expansionist interests and pro-immigrant identities on the one hand, and the influence of supranational and regional dynamics on the other.

First and foremost, the Declaration placed a central emphasis on improving immigration *control*. In one sense, the control agenda elaborated therein closely followed the prevailing European model of *external* control, including efforts to toughen border controls, enhance visa schemes, reinforce police forces, improve administrative coordination and centralization, streamline deportation processes, reform asylum and refugee procedures, and most explicitly, to “[intensify] the European dimension of

⁵⁰ Arrango, in King *et al.* (eds.), p. 267.

⁵¹ Ministro del Interior, *Líneas Básicas para una Política Española de Extranjería: Comunicación del Gobierno al Congreso de los Diputados*, (Madrid, Ministro del Interior, 1990) , cited in Arrango, p. 267.

immigration policies.”⁵² At the same time, the Declaration elaborated a different, southern European approach to internal “control.” Namely, in order to fight clandestine employment in the shadow economy, the government officially endorsed “regularization” (i.e. legalization) programs for irregular/illegal workers already residing in Spain with the aim of fighting clandestine labor.⁵³

The second major component of the new stance professed both explicit and implicit commitments to humanitarian objectives, with such priorities as the “definition and putting into practice of a policy of...social integration of immigrants,” and the promotion of Spanish cooperation in the economic development of transit and source countries, particularly the Maghreb states.⁵⁴ This second component of the Declaration also grew from the marriage of domestic ideational and logistical factors with liberal norms emanating from supranational institutions. Still, the 1991 Declaration revealed a strong overall “control” bias.

In fact, five of the Declaration’s eight general principles were directly and explicitly tied to controlling immigration flows.⁵⁵ Two additional principles—combating undocumented labor through “regularization” programs and supporting development in sending countries—were implicitly linked to both social inclusion and control/stemming purposes, while the latter focus on stemming and control formed the dominant rationale. Meanwhile only one objective (promoting social integration) fully and explicitly revealed

⁵² Joaquín Arrango, “Los Dilemas de las Políticas de Inmigración en Europa,” *Cuenta y Razón* 73-74 (1992): pp. 46-54, p. 50.

⁵³ Ibid.

⁵⁴ Ibid., pp. 50-51.

⁵⁵ Ibid.

aspirations linked to “social inclusion.” Nevertheless, the discourses of “social integration” and “development” planted the seeds that would later bear tangible fruit in the Spanish case and elsewhere, but a move in the direction of control initially dominated the government’s agenda.

Interpreting and Implementing “Control”

Schengen and Dublin

The Spanish government’s ratification of the Schengen Agreement in 1993 (implemented in March 1995) and the 1990 Dublin Convention⁵⁶ (entered into force in September 1997 and amended by the 2003 Dublin II regulation⁵⁷) facilitated in the solidification of a control emphasis regarding both immigration and asylum. By eliminating internal border controls for EU citizens,⁵⁸ Schengen effectively institutionalized the congruity of Spanish and European frontiers and linked Spanish immigration policies to the policies of other member states. The Dublin Convention, by contrast, was intended to serve as a mechanism for determining which member state would be responsible for handling asylum applications, the chief motivation being

⁵⁶ The full name of the Convention—“The Dublin Convention Determining the State Responsible for Examining Applications for Asylum Lodged in one of the Member States of the European Communities”—portrays its purpose. Basically, Dublin was intended to serve as a mechanism for deciding which country was responsible for handling asylum applications, although it did not function as planned. The Commission’s Proposal for a Council Regulation on replacing the Dublin Convention (COM [2001] 447 final) attested to the need to seriously revise the Convention. This need was realized by the Dublin II regulation adopted by the Council of Ministers on 18 February 2003.

⁵⁷ Michael Samers, “An Emerging Geopolitics of ‘Illegal’ Immigration in the European Union,” *European Journal of Migration and Law*, Vol. 6 (2004): 27-45, p. 33.

⁵⁸ By the time Spain ratified the Schengen Agreement, the concept of “EU citizenship” had already been introduced at Maastricht in 1992.

prevention of the problem of “asylum shopping” that would presumably arise in a Europe without internal borders.⁵⁹

Although Schengen and Dublin dealt with different issues, the two are intimately intertwined in regional integration dynamics and ultimately both agreements had the effect of making Spanish immigration and asylum policy more control-oriented in order to conform to “European” preferences, as reflected in the 1991 Parliamentary Declaration discussed above. A good example in relation to Schengen cooperation is the evolution of computer surveillance databases with biometric identification technology used to prevent “blacklisted” TCNs from entering EU member states (see Chapter Three). The expansion of such technology is traceable to the plans for the Schengen Information System (SIS) included in the Schengen *acquis*, the subsequent introduction of the SIS II, the addition of the Visa Information System (VIS) and the Passenger Name Record (PNR),⁶⁰ and the establishment in May 2005 of the SIS III at the Prüm Convention between seven members of both the EU and Schengen, including Spain.⁶¹

Furthermore, the Dublin Convention reflected the restrictive and control-oriented mindsets of states seeking to avoid handling asylum requests. Indeed, the Commission quickly recognized the need to thoroughly reform the Convention because—among other reasons—its control emphasis eclipsed the goal of protection.⁶² Taken together, both

⁵⁹ Geddes, p. 77.

⁶⁰ Ben Hayes, “Statewatch Analysis: From the Schengen Information System to SIS II and the Visa Information (VIS): The Proposals Explained,” *Statewatch*, Online, February 2004, p. 3 of 45, available <http://www.statewatch.org/news/2005/may/analysis-sisII.pdf>, accessed 26 February 2007.

⁶¹ The Prüm Convention, 27 May 2005, *Statewatch*, Online, available <http://www.statewatch.org/news/2005/jul/schengenIII-english.pdf>, p. 1 of 18, accessed 15 March 2007.

⁶² “Fact Sheet on the Dublin Convention,” *International Law in Context: Information Note No. 4 (April 2002)*, *Irish Refugee Council*, available <http://www.irishrefugeecouncil.ie>, accessed 25 March 2007, p. 3.

Schengen and Dublin led Spanish policymakers to fundamentally transform the 1984 *Ley de Asilo y Refugio* (Asylum and Refuge Law) in a manner that established and reinforced a more restrictive attitude toward asylum than would have arisen from purely domestic factors.⁶³

Regularization Processes: Control, Inclusion, or Both?

At the same time, the Spanish government's interpretation of "immigration control" also included the rather different approach consisting of periodic regularization programs (referred to interchangeably as "normalizations," "legalizations," or "amnesties"). While regularizations are certainly aimed at procuring immigrants' integration into the domestic labor market, for Spain and other countries such programs are explicitly intended to serve as policies of control. Specifically, policymakers believe such programs can draw "irregular" (i.e. illegal) immigrants out of the underground economy, thereby allowing governments to account for their immigrant populations and ensure proper practices such as tax payment. Spanish PSOE MP Rafael Estrella exemplified this logic by stating, "We have a number of illegal immigrants in Spain who are not contributing to...the social system, with their taxes and who have been working here on an irregular basis where they are exposed to the mafias."⁶⁴ Empirically, such periodic regularization programs have

⁶³ Eduard Sagarra, "Nueva Regulación de la Condición de Refugiado y el Derecho de Asilo en España," in Alegria Borrás (ed.) *Diez Años de la Ley de Extranjería: Balance y Perspectivas* (Barcelona: Fundación Paulino Torras Domènech, 1995), pp. 38-47, p. 44.

⁶⁴ "Spain Launches Immigrant Amnesty," *BBC News International*, [periodical on-line], 7 February 2005, available <http://news.bbc.co.uk/2/hi/europe/4242411.stm>, accessed 10 January 2007.

become a typical mechanism for southern European immigration policymakers.⁶⁵ Table 4.2 below provides a cross-country comparison of the magnitudes of regularization processes in southern European countries (plus Belgium and France). Italy and Spain are the countries to most frequently utilize the regularization mechanism, having done so every few years since becoming immigration countries in the mid- to late-1980s.

Table 4.2 shows that Spanish governments have repeatedly implemented regularizations of varying shapes and sizes. As part of the 1991 “Foreigners in Spain: Policy Guidelines” Declaration the government launched the second major regularization campaign in the history of Spanish immigration policy, which granted “regularized” status to roughly 110,000 of the 150,000 irregular workers in Spain at that time.⁶⁶

Table 4.2 Regularization Programs in European Countries

Country	No. Regularized (1000s)	Country	No. Regularized (1000s)
Belgium		Italy	
(2000)	52.0	(1987-88)	118.7
France		(1990)	217.7
(1981-1982)	121.1	(1996)	244.5
Greece		(1998)	217.1
(1997-98)	77.6	(2002)	634.7
(1997-98)*	371.0	Spain	
(2001)	351.0	(1985-86)	43.8
Portugal		(1991)	110.1
(1992-93)	39.2	(1996)	21.3
(1996)	21.6	(2000)	163.9
(2001)	179.2	(2001)	234.6
		(2005)	690.7

*Second round.

Source: Miroslava Kostova Karaboytcheva, “Una Evaluación del Último Proceso de Regularización de Trabajadores Extranjeros en España (Febrero-Mayo de 2005). Un Año Después (DT), DT No. 15/2006, *Real Instituto Elcano de Estudios Internacionales y Estratégicos*, Online, 14 Aug 2006, available <http://www.realinstitutoelcano.org/documentos/252.asp>, accessed 14 February 2007, (adapted).

⁶⁵ Sciortino, “Planning in the Dark: the Evolution of Italian Immigration Control,” in Brochmann and Hammar (eds.), p. 233.

⁶⁶ Arrango, in King *et al.* (eds.), 268.

Several similar programs followed in 1996, 2000, and 2001. The most recent of such initiatives, however, has entered the center of controversy in a Europe increasingly torn on the immigration issue. Between 7 February and 7 May of 2005, the Spanish government—headed by the Spanish Socialist Worker’s Party (Partido Socialista Obrero Española, PSOE)—opened a three-month normalization program intended to bring to the surface the country’s growing underground economy, which the government acknowledged had been fueled by increasing immigration.⁶⁷

While the data show that similar policies are widespread across southern European countries, the 2005 program in Spain clearly differed from previous amnesties along several important dimensions. Most notably, the scale of that particular initiative was unprecedented, both in Spain and throughout Europe. The massive increase in the number of irregular workers that were granted legal status during this process reflected comparably drastic changes in the composition of Spanish society. Specifically, the immigrant population increased dramatically since the late 1990s. Tables 4.3 and 4.4 depict the levels of foreign nationals in Spain between 1975 and 2005. The data show that not only did the total levels of immigration increase most significantly between 1990 and 2005, but the demographics of the immigrant population shifted as well. From 1975 to 2001, most foreigners in Spain were from other European countries.⁶⁸ Between 2002 and 2005 however, Latin Americans constituted between 37 and 41 percent of the foreign

⁶⁷ “Spain: The Normalisation of Immigrants in 2005,” *The European Foundation for the Improvement of Living and Working Conditions (Eurofound): The European Industrial Relations Observatory (EIRO)*, Online, 12 May 2005, available <http://eurofound.europa.eu/eiro/2005/03/feature/es0503205f.html>, accessed 15 February 2007.

⁶⁸ Combining foreign residents from both EU member states and non-members, Europeans declined from approximately 65% to 37% of the foreign population in Spain over this time period (see Table 4.2).

population, overtaking the 35 percent made up by Europeans.⁶⁹ Additionally, the proportion of Africans between 1990 and 1995 jumped from 6 to 19 percent, peaking at 27 percent in 2001 and hovering around 20 percent thereafter.

Table 4.3 Levels of Foreign Nationals in Spain by Region of Origin, 1975-2005

Year	Pop (1000s)	Foreign Nat'l's	Foreign %	EU	Rest of Europe	North America	Latin America	Africa	Asia
1975	35,596	165,289	0.46	92,917	9,785	12,361	35,781	3,232	9,393
1980	37,542	182,045	0.48	106,738	11,634	12,363	34,338	4,067	11,419
1985	38,474	241,971	0.63	142,346	15,780	15,406	38,671	8,529	19,451
1990*	39,303	407,647	1.04	N/A	N/A	21,186	59,372	25,854	29,116
1995	39,921	499,773	1.25	235,858	19,844	19,992	88,940	95,718	38,352
1997	39,108	609,800	1.56	260,600	28,500	21,000	106,000	142,800	49,100
1999	39,168	801,339	2.05	312,203	41,353	17,138	149,571	213,012	66,340
2001■	40,721	1,109,060	2.72	331,352	81,170	15,020	282,778	304,109	91,552
2002†	41,314	1,977,944	4.79	489,813	212,132	22,103	730,459	423,045	98,942
2003†	42,005	2,664,168	6.34	587,949	348,585	25,963	1,047,564	522,682	128,952
2004†	42,692	3,034,326	7.10	636,037	404,643	24,613	1,237,806	579,372	142,828
2005†	43,398	3,691,547	8.50	766,678	561,475	28,404	1,431,770	705,944	186,227

* In 1990, Europeans were not included because of measurement changes.

■ Since 2001, data on the EU includes the entire European Economic Area (EEA).

† Census data includes all registered foreigners regardless of legal status.

Sources: *Ministerio del Interior* 2002; INE 2004 and 2005; and MTAS 2005.⁷⁰ Population data from United Nations Population Division (1975-1995),⁷¹ CIA World Factbook (1997, 1999),⁷² and OECD (2001-2005).⁷³ Percentages calculated by the author.

⁶⁹ Combining both EU members and non-members, Europeans averaged approximately 35% of the foreign population in Spain between 2002 and 2005.

⁷⁰ Adapted from Francisco Javier Moreno Fuentes, "The Regularisation of Undocumented Migrants as a Mechanism for the 'Emerging' of the Spanish Underground Economy," Working Paper 05-06, *Unidad de Políticas Comparadas (CSIC)*, (Madrid, June 2005), Online, available <http://www.iesam.csic.es/doctrab2/dt-0506.pdf>, accessed 20 March 2007, p. 9. of 24.

⁷¹ Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat, Trends in Total Migrant Stock: The 2005 Revision, [Online], available <http://esa.un.org/migration>, 16 October 2006, accessed 22 March 2007.

⁷² CIA World Factbook 1997, available <http://umsl.edu/services/govdocs/wofact97/226.htm>, and 1999, available <http://www.umsl.edu/services/govdocs/wofact99/275.htm>, both accessed 22 March 2007.

⁷³ OECD Country Statistical Profiles 2007, Spain, available <http://stats.oecd.org/wbos/viewhtml.aspx?queryname=331&querytype=view&lang=en>, 12 April 2007.

Table 4.4 Composition of Foreign Population in Spain by Region, 1975-2005

Year	Total Foreign Pop.	% EU	% Rest of Europe	% North America	% Latin America	% Africa	% Asia
1975	165,289	56.21	5.92	7.48	21.65	1.96	5.68
1980	182,045	58.63	6.39	6.79	18.86	2.23	6.27
1985	241,971	58.83	6.52	6.37	15.98	3.44	8.04
1990	407,647	-	-	5.20	14.56	6.34	7.14
1995	499,773	47.19	3.97	4.00	17.80	19.15	7.67
1997	609,800	42.74	4.67	3.44	17.38	23.42	8.05
1999	801,339	38.96	5.16	2.14	18.67	26.58	8.28
2001	1,109,060	29.88	7.32	1.35	25.50	27.42	8.25
2002	1,977,944	24.76	10.72	1.12	36.93	21.38	5.00
2003	2,664,168	22.07	13.08	0.97	39.32	19.62	4.84
2004	3,034,326	20.96	13.34	0.81	40.80	19.09	4.71
2005	3,691,547	20.77	15.21	0.77	38.95	19.12	5.04

Source: author's calculations based on data in Table 4.4.

The demographic changes within Spain had a profound effect on the outcome of the 2005 regularization process. Whereas 800,000 immigrants (roughly 2 percent of the population) were reportedly living in Spain in 1999, by January 2005 the National Statistics Institute (Instituto Nacional de Estadística, INE) reported that this figure had more than quadrupled to over 3.5 million (more than 8 percent of the population) in six years, reaching the fourth highest level in the EU behind only Germany, Austria, and Belgium.⁷⁴ Additionally, *The European Industrial Relations Observatory (EIRO)* estimated that approximately 1.5 million *illegal* immigrants resided and/or worked within Spain at the time,⁷⁵ almost half of which—approximately 700,000⁷⁶—were offered the opportunity to obtain legal status through the 2005 program.

⁷⁴ "Spain: The Normalisation of Immigrants in 2005," *The European Foundation for the Improvement of Living and Working Conditions (Eurofound): The European Industrial Relations Observatory (EIRO)*, Online, 12 May 2005, available <http://eurofound.europa.eu/eiro/2005/03/feature/es0503205f.html>, accessed 15 February 2007.

⁷⁵ Ibid.

⁷⁶ Katya Adler, "Spain Stands by Immigrant Amnesty," *BBC News International* [periodical on-line] 25 May 2005, available <http://news.bbc.co.uk/2/hi/europe/4579127.stm>, accessed 20 October 2006.

Moreover, the distinction between fellow Europeans—usually retirees who settled in Spain for climactic and cultural reasons⁷⁷—on the one hand and African, Latin American, Asian, and Eastern European immigrants on the other is enormously significant, and has clear manifestations in the outcome of the 2005 program. Especially since the implementation of Schengen, the realization of EU citizenship, and the subsequent extension of the rights of internal free movement to EU citizens, Western European settlers in Spain no longer form part of the “issue” of immigration requiring any public policy directed at limiting their entry or regulating their role in society.⁷⁸ The immigrants affected by Spanish regularization programs are broken down by nationality and illustrated in Table 4.5, revealing a consistently high proportion of Moroccan workers as well as increasingly high levels of Latin Americans (Ecuadorian, Colombian, and Bolivian workers), and Eastern Europeans (Romanian and Bulgarian workers) in the latest program.

Table 4.5 No. Permits Granted in Spanish Regularizations, by Nationality (1000s)

(1985-1986)	(1991)	(1996)	(2000)	(2001)	(2005)
Morocco (7.9)	Morocco (49.2)	Morocco (7.0)	Morocco (45.2)	Ecuador (52.3)	Ecuador (139.7)
Portugal (3.8)	Argentina (7.5)	Peru (1.9)	Ecuador (20.2)	Colombia (40.8)	Romania (116.3)
Senegal (3.6)	Peru (5.7)	China (1.4)	Colombia (12.5)	Morocco (31.7)	Morocco (86.0)
Argentina (2.9)	Dom Rep (5.5)	Argentina (1.3)	China (8.8)	Romania (20.4)	Colombia (56.7)
UK (2.6)	China (4.2)	Poland (1.1)	Pakistan (7.3)		Bolivia (47.2)
Philippines (1.9)	Poland (3.3)	Dom Rep (0.8)	Romania (6.9)		Bulgaria (25.5)
Others (21.1)	Others (34.7)	Others (7.8)	Others (63.1)	Others (89.4)	Others (217.3)
Total (43.8)	Total (110.1)	Total (21.3)	Total (163.9)	Total (234.6)	Total (690.7)

Source: Miroslava Kostova Karaboytcheva, “Una Evaluación del Último Proceso de Regularización de Trabajadores Extranjeros en España (Febrero-Mayo de 2005). Un Año Después (DT), DT No. 15/2006, *Real Instituto Elcano de Estudios Internacionales y Estratégicos*, Online, 14 Aug 2006, available <http://www.realinstitutoelcano.org/documentos/252.asp>, accessed 14 February 2007.

⁷⁷ Allan M. Williams, Russell King, and Tony Warnes, “A Place in the Sun: International Retirement Migration from Northern to Southern Europe,” *European Urban and Regional Studies*, Vol. 4, No. 2 (1997): 115-134.

⁷⁸ Even when Europeans still constituted roughly half of the total foreign population in Spain in the late 1990s, Joaquín Arrango had already made this point. See Joaquín Arrango, “Becoming a Country of Immigration at the End of the Twentieth Century: The Case of Spain,” in Russell King, Gabriella Lazaridis, and Charalambos Tsardanidis (eds.), *El Dorado or Fortress? Migration in Southern Europe* (Houndsmills, Basingstoke, Hampshire, New York, NY: Palgrave Macmillan, 2000), pp. 253-276, pp. 257.

The figures from 2005 are further broken down by economic sector, and contrasted with the 1991 program in Table 4.6. This comparison shows remarkable continuities as well as important differences. Notably, the number of Latin American immigrants affected by these programs nearly doubled from 26.3 percent in 1991 to 50.8 percent in 2005. Despite profound changes in immigrant nationalities, the allocation of permits by economic sector remained remarkably constant over the sixteen-year period in question. Over half of all permits granted during both programs went to immigrant workers in the service sector, and the proportions of permits issued in agriculture, manufacturing and construction did not vary significantly, demonstrating the consistency of the specific structural needs of the Spanish economy regarding foreign labor.

Table 4.6 Labor Permits Granted through 1991 and 2005 Regularizations

	1991		2005	
	No.	%	No.	%
Total	108,321	100	689,162	100
Nationality				
Europe	8,187	7.6	169,625	24.6
EU	2,525	2.3	143,393	20.8
Rest of Europe	5,662	5.2	26,232	3.8
Africa	59,995	55.4	130,351	18.9
North America	1,576	1.5	755	0.1
Latin America	28,489	26.3	349,837	50.8
Asia	9,902	9.1	38,347	5.6
Oceania	88	0.1	181	0.05
Stateless persons	84	0.1	8	0.002
Economic Sector				
Agriculture	18,493	17.1	90,093	13.1
Manufacturing	8,103	7.5	39,952	5.8
Construction	16,548	15.3	142,187	20.6
Services	64,218	59.3	370,370	53.7
Not Classifiable	959	0.9	46,560	6.8

Sources: *Estadística de Permisos de Trabajo Concedidos a Extranjeros, 1991, 2005* (Madrid: Ministerio de Trabajo y Seguridad Social, 1993), 1991 information adapted from Àngels Pascual de Sans, Jordi Cardelús, and Miguel Solana Solana, "Recent Immigration to Catalonia: Economic Character and Responses," in Russell King, Gabriella Lazaridis, and Charalambos Tsardanidis (eds.), *El Dorado or Fortress? Migration in Southern Europe* (Houndsmills, Basingstoke, Hampshire, New York, NY: Palgrave Macmillan, 2000), pp. 104-124, p. 118; 2005 information gathered by author, available <http://www.mtas.es/estadisticas/bel/PTE/index.htm>, accessed 27 March 2007.

Implementing “Social Inclusion”

The second component of the 1991 Declaration (integration of immigrants) involved the adoption of a “Plan for the Social Integration of Immigrants” in 1994 and the subsequent creation of the “Permanent Observatory of Immigration” and the “Forum for Integration,” which were intended to implement the Plan.⁷⁹ Though immigrant integration may have appeared on the national agenda regardless of the EU context, one scholar has pointed out that the Plan drew heavily from a 1991 Council of Ministers document on inter-ethnic relations.⁸⁰ At the same time, the commitment to social inclusion faced implementation problems in the early stages. Arrango suggests that the Plan merely presented vague statements of “principles and intentions, rather than an effective catalogue of practical measures.”⁸¹ Another scholar conducted a thorough analysis of Spanish immigration law, revealing that immigration policies in Spain—contrary to inclusive rhetoric—systemically marginalize and constantly “irregularize” Third World immigrants.⁸²

Generally, integration into the labor market and society at large varies greatly with nationality. While foreigners from other EU countries tend to be well integrated, the same does not hold for Latin American and African immigrants, especially Africans.⁸³

⁷⁹ Arrango, in King *et al.* (eds.), pp. 270-271.

⁸⁰ G. Danese, “Transnational Collective Action in Europe: The case of Migrants in Italy and Spain,” *Journal of Ethnic and Migration Studies* 24 (1998): 715-734, p. 724.

⁸¹ Arrango, in King *et al.* (eds.), p. 270.

⁸² Kitty Calavita, “Immigration, Law, and Marginalization in a Global Economy: Notes from Spain,” *Law & Society Review*, Vol. 32, No. 3 (1998): 529-566, p. 530.

⁸³ Catalina Amuedo-Dorantes and Sara de la Rica, “Labor Market Assimilation of Recent Immigrants in Spain,” Discussion Paper Series, *Forschungsinstitut zur Zukunft der Arbeit Institute for the Study of Labor*, IZA Discussion Paper No. 2104 (April 2006), Online, available <http://repec.iza.org/RePEc/Discussionpaper/dp2104.pdf>, accessed 15 February 2007.

Indeed, North African immigrants in Spain—aware of their contribution to the Spanish economy—have grown increasingly weary of their marginalized status. Twenty-two year old Moroccan immigrant Habib Majid notes, “The Spanish want the Moroccans to come and work here...But we spend up to nine hours a day...earning very little money. They don’t want to improve our conditions.”⁸⁴ Clearly, although Spanish authorities have heavily amended and restructured immigration laws since the original 1985 *Ley de Extranjería*, often couching reforms in the rhetoric of “social inclusion,” the influence of the control mindset as “imposed” by the EC core countries lingers, attesting to the “stickiness” even of *ad hoc* and decentralized institutions.⁸⁵

This is not to say that the issue of “social exclusion” is not a real concern for publics, policymakers, and especially pro-migrant interest groups at both the Spanish and European levels. To the contrary, this issue is much more pronounced in the European immigration debate than in other parts of the world, such as the United States for example. Indeed, the debates surrounding inclusion are directly embedded within the market-making dynamics of European integration.⁸⁶ Specifically, supranational competency related to the free movement of persons has created an institutional context that may accurately be called a supranational “political opportunity structure,” which has developed in stark contrast to the intergovernmental realm of immigration and asylum policymaking.⁸⁷

⁸⁴ Biles, “Spain’s Immigrants Demand More Rights.”

⁸⁵ Where “institutions” are broadly defined to include norms and socialization processes, and admittedly, this “stickiness” requires reiterated social interaction.

⁸⁶ Geddes, p. 131.

⁸⁷ Ibid., p. 132.

Conclusion: A Studious but Defiant Apprentice

Ultimately, the somewhat limited extent of progressive liberal norm implementation and the inability to attain the restrictive targets implied by the “control” agenda are embedded in the wider regional institutional structure—namely, the dual “two-speed” character of the EU immigration policy domain, where the Commission seeks to expand its authority within the context of intergovernmental decision-making and policy implementation. Put simply, the supranational institutions of the EU have regulatory authority in matters related to “free movement,” whereas “immigration-proper” to Europe is managed by intergovernmental cooperation. Policymaking in Spain since the turn of the millennium is visibly marked by increasingly restrictive ambitions, reflecting the internalization of a control mindset at the potential expense of social inclusion objectives.

As a case in point, after gaining an absolute majority in the March 2000 general elections, the conservative government of the People’s Party (Partido Popular, PP) under Prime Minister José María Aznar immediately moved on immigration reform. As one of the new government’s first major initiatives, the PP amended the *Ley de Extranjería* on the grounds that the current law was too relaxed toward illegal immigration. The key actors in drafting the amendments made an explicit connection between “Europe” and increased restriction, justifying the proposed reform on the basis that the existing, more relaxed law fundamentally contradicted the policy preferences prevailing in the EU.⁸⁸ Such arguments offer clear evidence of a connection between domestic actors and the established security focus underpinning regional policymaking.

⁸⁸ “New Reform of Law on Foreign Persons,” *The European Industrial Relations Observatory On-line*, 28 December 2000, available <http://eurofound.europa.eu/eiro/2000/12/inbrief/es0012224n.html>, accessed 13 March 2007.

Of course, domestic partisan politics complicate the picture. The minority PSOE—joined by trade unions, NGOs, and other immigrants’ rights advocacy groups—displayed fierce opposition to the 2000 PP reforms, arguing that some of the new provisions were unconstitutional.⁸⁹ Nevertheless, in 2002 the PP majority pursued an even tougher stance on immigration, proposing further reforms to the *Ley de Extranjería* accompanied by substantive measures intended to achieve more restrictive targets. The policy mechanisms to achieve this end consisted of restricting access to residence permits for immigrants already living within Spain, reducing immigration linked to family reunification, and cracking down on clandestine labor trafficking and illegal immigrant recruitment through harsh punitive measures.⁹⁰ Other efforts to tighten immigration controls include visa requirements for immigrants from a vast array of countries across the globe (e.g., Bolivians, Romanians, Bulgarians),⁹¹ strengthening police forces and border controls, and expulsion of undocumented immigrants.⁹²

At the same time, domestic expansionism has certainly not been defeated but the restrictive impetuses of regional structures. Indeed, despite increasing restriction, since the turn of the millennium Spain has also pursued a variety of measures with the intention

⁸⁹ Ibid.

⁹⁰ “Government Toughens Policy on Labour Migration,” *The European Industrial Relations Observatory On-line*, 24 September 2002, available <http://eurofound.europa.eu/eiro/2002/09/feature/es0209204f.html>, accessed 12 March 2007.

⁹¹ For recent visa policies regarding Bolivians, Romanians, and Bulgarians, see “Visas Required for Bolivians to Enter Spain,” *Prensa Latina, Latin American News Agency*, Online, 1 April 2006, available <http://www.plenglish.com/article.asp?ID=%7BC7A02B85-5C2C-45B7-84B1-FF3C1ED432DB%7D&language=EN>, accessed 2 April 2007; “Spain Politics: A Pause for Thought on Immigration,” *The Economist*, [on-line periodical], 2 Nov 2006, available http://www.economist.com/agenda/displaystory.cfm?story_id=8108508, accessed 10 January 2007.

⁹² “Spain: The Normalisation of Immigrants in 2005,” *Eurofound*, Online, 12 May 2005, available <http://eurofound.europa.eu/eiro/2005/03/feature/es0503205f.html>, accessed 15 February 2007.

of soliciting legal immigrants or integrating resident illegals. The two most prominent policies regarding these goals are exemplified in the introduction of labor entry quotas (“el contingente”)⁹³ and the monumental 2005 amnesty process. In the midst of the 2006 humanitarian crisis, the latter has become the center of controversy. Chapter Five examines the full implications of this debate, and connects the 2005 regularization to other recent trends in Spanish immigration policymaking that deviate from the norm and affect regional developments.

⁹³ Arrango, in King *et al.* (eds.), p 269.

CHAPTER FIVE THE SORCERER'S APPRENTICE?

Chapter Four effectively established the manifestation in Spanish immigration policymaking of the first major theme of the EU immigration policy domain outlined in Chapter Three. That is, over the course of EU/EC membership Spanish policies clearly adopted restrictive and control frames that tended to undermine the scope for social inclusion goals at the domestic level. Given the tensions between the forces of regional structures and liberal expansionist preferences and identities at the domestic level, how has the transformation of domestic outputs affected Spanish actors' reciprocal influence back into the EU system?

In order to flesh out the answer to this question, this chapter expands upon the “top-down” analysis of Chapter Three by visiting the case of the 2005 regularizations, which occurred at the crossroads between Spain *being influenced* and beginning to *influence* policy developments in the region. The analysis of the 2005-2006 controversy extends to an evaluation of the policy failure or “gap” hypothesis, which serves to demonstrate that policy failure did in fact take place in many Spanish policies between restrictive targets and more liberal outcomes. Such “failures,” in turn, are implicated in the “two-speed” regional structures hindering full cooperation and undermining the potential for effective

long-term policies, especially in the southern states that are exposed to much of the direct migratory pressure.

This situation is also reflected in the second major theme outlined in Chapter Three: the externalization (and exportation) of control. The tendency to externalize and export control is particularly interesting in the Spanish case because of compelling geopolitical factors, combined with embedment in European structures. Since the Spanish government implemented the Schengen Agreement in March 1995, Spanish borders and European borders have become one, implying an outward shift of control from the “core” to the South (and to the East). Additionally, empirical evidence suggests that the Spanish government—at times working in conjunction with the Commission—continues to externalize control further outward¹ to “transit” and “source” countries in North and sub-Saharan Africa in a web of bilateral, multilateral, intergovernmental, and supranational arrangements. These developments steer the discussion to questions about Spanish and European foreign policy as well as more fundamental questions surrounding the seemingly simple task of *identifying* “Europe” in reference to its cultural, historical, political, social, economic, and geographical boundaries. To reach this point, the analysis departs from Chapter Three to an exceptional instance of immigration policy by the PSOE government in 2005.

The 2005 Regularization Controversy: Is Spanish Immigration Policy a European Problem?

To be sure, many Spanish problems are superficially just that: *Spanish* problems. Madrid faces very tangible challenges related to immigration control that rub against elite

¹ Indeed, it is perhaps more accurate here to speak of the *exportation* of control than simple externalization.

perceptions of sovereignty. But Spanish elites view sovereignty as being deeply embedded in a European context, rather than separated from regional objectives. For example, Interior Minister Jose Antonio Alonso defended Spain's unilateral launch of the controversial 2005 regularization process by stating, "Spain is a sovereign country...As such, it is respected throughout Europe. Decisions taken by the Spanish government are good for Spain and for Europe."² Moreover, Spanish Justice Minister Juan Fernando Lopez Aguilar spoke of Spain's 2006 migrant crisis in broader terms, directly connecting Spanish problems with European ones: "These people coming from the African continent are knocking on the door of the whole European Union – we just happen to be the closest border country toward the African continent."³ More indirectly, supranational human rights norms influence politics, and the control-oriented construction of "threat" has—to a point—been internalized by Spanish domestic actors as part of the ongoing two-way socialization processes involved with "reconnecting with Europe," and perhaps lately, "reshaping Europe" (see Chapter Five).

Neighboring countries in the northwestern European core also continue to more directly impose their preferences on Spanish actors through scornful statements and patronizing diminutives such as "the Sorcerer's Apprentice" and Europe's "soft underbelly." Following the 2005 regularization Germany, Austria, the Netherlands, and France scoffed at Spanish pleas for EU help to manage what had become a substantial humanitarian crisis by 2006. The 31,000 mainly sub-Saharan Africans that washed up on the shores of the Canary Islands that year represented a staggering seven-fold increase

² Adler, "Spain Stands by Immigrant Amnesty."

³ "EU Nations Clash over Immigration," *BBC News International*, [periodical on-line], 22 September 2006, available <http://news.bbc.co.uk/2/hi/europe/5369986.stm>, accessed 15 February 2007.

over the 2005 figure.⁴ The dramatic increase in the number of “boat people” attracted embarrassing international media attention, exposing both the impotence of overwhelmed Spanish security forces to secure their borders and—even worse—the appalling fact that more than 6,000 migrants lost their lives during the treacherous journey.⁵

When Spain’s justice minister pleaded for EU assistance in dealing with the crisis at a September 2006 meeting in Tampere, Finland, German Interior Minister Wolfgang Schauble responded with disdain, contending that Madrid “must stop asking for the money of others.”⁶ Similarly, Austrian Justice Minister Karin Gastinger directly implicated the 2005 regularization program, arguing that the amnesty had sent “the wrong signal,” giving “some kind of pull factor to the people in Africa, as we unfortunately saw in the last months.”⁷

That same month, the Spanish Socialist government deflected such criticisms as counterproductive, stressing the need for cooperation in a universally salient issue such as immigration. Having endured repeated immigration policy “lectures” from other member-state governments (best captured in French Interior Minister Nicolás Sarkozy’s “Sorcerer’s Apprentice” comment⁸), Spanish Prime Minister José Luís Rodríguez Zapatero declared publicly that the “[EU] member states and the European Commission must cooperate in the face of a challenge with profound effects on many countries,” but

⁴ Gerson, “Spain’s Guest-Worker Program Provides Test Case for EU.”

⁵ Ibid.

⁶ “EU Nations Clash over Immigration.”

⁷ Ibid.

⁸ Sarkozy’s comment was reported by Spanish news agency *ABC* in 2006, and reproduced in other news sources. See “Zapatero No Admite las Lecciones de los Países de la UE en Material de Inmigración,” *ABC*, 7 September 2006 [periodical on-line]; available from http://www.hispanoargentinos.com/noticias/2006/septiembre/270906_ABC_es_Zapatero_Inmigracion.htm; Internet; accessed 25 October 2006.

he also warned that “if some countries only want to teach lessons based on their own policies, [the Spanish] Government does not accept that.”⁹ According to this (rather fair) logic, if the European core countries want to see more effective control in southern Europe, they must commit more resources in an honest effort to cooperate.

The Socialist government could not rest by simply defending criticisms from other countries, however. In the midst of the “Sorcerer’s Apprentice” controversy, internal partisan politics also reared its ugly head. Immediately following the 2005 amnesty, the conservative PP opposition claimed that the program would act as a magnet for more illegal immigrants. Partido Popular MP Gustavo de Aristegui remarked,

The Spanish government is making the right steps to provoke a wave of xenophobia and racism which this country has never had before...The government simply did not do its homework...Our European neighbors are now worried that legalised illegal immigrants will use their new papers, procured in Spain, to enter wealthier EU nations and then never leave.¹⁰

Similarly, PP leader Mariano Rajoy pointed out that Zapatero’s immigration policy had “generated endless criticisms in the EU,” accusing the Prime Minister of “ignoring the evidence” and recommending that he display “humility [in] recognizing his error.”¹¹

Such political statements from the conservative opposition—especially regarding the risk of inciting xenophobia—are especially interesting regarding “policy gaps” between intended effects and actual outcomes of policy.

⁹ “Zapatero No Admite las Lecciones de los Países de la UE en Material de Inmigración.”

¹⁰ Adler, “Spain Stands by Immigrant Amnesty.”

¹¹ “Zapatero No Admite las Lecciones de los Países de la UE en Material de Inmigración.”

Recall that Cornelius *et al.* argue that such “gaps” are likely to be filled by anti-immigration or racist sentiment.¹² Though it may be too early to tell, at present the Spanish case does not vindicate this hypothesis. Of course, it must be acknowledged that immigration has consistently ranked as a salient concern in public opinion polls, and that a handful of anti-immigrant demonstrations—sometimes erupting in violence—have occurred in Spain.¹³ Given the specter of radical right-wing movements throughout Europe, it would be dangerous to assume that Spain is completely immune from similar developments. However, public opinion polls do not reveal a significant anti-immigration trend. For example, when asked to rank “the biggest problem currently existing in Spain” in 2007, respondents placed “Terrorism, ETA” first (23.9%), unemployment second (16.0%), and immigration third at 13.4%, only slightly ahead of “housing” at 10.2%.¹⁴

Moreover, public opinion data reveal that Spaniards are among the most tolerant European publics towards immigration and immigrants.¹⁵ A cross-country public opinion survey of the five largest European countries (the UK, France, Germany, Italy, and

¹² W. Cornelius, P. Martin, and J. Hollifield, “Introduction: The Ambivalent Quest for Immigration Control,” in W. Cornelius, P. Martin, and J. Hollifield (eds.), *Controlling Immigration: A Global Perspective* (Stanford, CA: Stanford University Press, 1994), pp. 3-41.

¹³ For instance, in February 2000 hostility towards Moroccan immigrants in southern Spain resulted in a violent outburst in El Ejido. See Peter Biles, “Spain’s Immigrants Demand More Rights,” *BBC News Europe*, [periodical on-line], 25 February 2000, available <http://news.bbc.co.uk/1/hi/world/europe/656612.stm>, accessed 10 February 2007.

¹⁴ Centro de Investigaciones Sociales, Barómetro de Febrero, Estudio no. 2,677, Febrero 2007, Online, available http://www.cis.es/cis/export/sites/default/-Archivos/Marginales/2660_2679/2677/Es2677mar_A.pdf, last accessed 2 April 2007.

¹⁵ Centro de Investigaciones Sociales, La Opinión en los Barómetros de 2004: Inmigración, Boletín 36, Septiembre-diciembre 2004, Estudio CIS 2565: Barómetro de mayo de 2004, Online available http://www.cis.es/cis/opencms/-Archivos/Boletines/36/BDO_36_Inmigracion.html, last accessed 2 April 2007.

Spain), which revealed widespread popular pessimism regarding immigration and immigration policy, also concluded that the Spanish are the most positive about both (1) immigrants' effects on the economy and (2) their government's handling of immigration policy.¹⁶ At the same time, public opinion in Spain may be misleading as a result of yet another peculiarity of the Spanish case. In an analysis of public attitudes towards democracy in Spain since its inception until the mid-1990s, Montero, Gunther, and Torcal conclude,

Democracy in Spain seems to be characterized by [an] unusual combination of high levels of legitimacy, which have remained stable and immune to fluctuations in citizens' negative perceptions regarding the performance of the democracy, and equally high levels of political apathy, which are also marked by their stability despite all types of changes which have taken place in the political, social, and economic environments.¹⁷

Therefore, it is probable that "gaps" between public opinion and government policy in Spain are primarily the consequence of political indifference among Spaniards, a "cultural phenomenon"¹⁸ that exhibits longitudinal stability along with high approval of political institutions as such.

¹⁶ "'Big Five' Citizens Don't Trust Governments on Immigration," *Euractiv*, Online, 20 October 2006, available <http://www.euractiv.com/en/mobility/big-citizens-trust-governments-immigration/article-158942>, accessed 11 January 2007.

¹⁷ José Ramón Montero, Richard Gunther, y Mariano Torcal, "Actitudes Políticas de los Españoles hacia la Democracia: Descontento, Legitimidad y Desafección," *Revista Española de Investigaciones Sociológicas*, no. 83 (1998): 9-49, p. 44.

¹⁸ *Ibid.*

Policy Failure? Reconciling Rhetoric with Reality, Expansion with Restriction, and Regionalism with Domestic Preferences

Illegal vs. Legal Immigration

Within the EU, the southern states have increasingly become the focus of discussions on the limits of immigration control.¹⁹ In spite of the clear efforts to toughen immigration control policy in Spain, immigration—both legal and illegal—persists for a wealth of reasons. The most “problematic” form of immigration to be recently politicized is illegal immigration from Africa, which continues, among other reasons, due to (1) the standard-of-living disparity between Europe and Africa, making Europe a desirable permanent destination; (2) the geographical proximity between Africa and Spain’s colonial vestiges (and the Spanish mainland, for that matter); (3) the ease of finding undocumented employment in Spain’s underground economy; and (4) because the established laws make deportation difficult. In light of these and other factors, it has become increasingly plausible that European countries cannot truly “control” the truly worrisome forms of immigration.

Indeed, Spain—and Europe in general—may need to reevaluate the established control policy repertoire. Many immigration scholars have pointed to the empirical overlaps—and at times, direct causal relationships—between “stemming” and “soliciting” policies.²⁰ According to one perspective, ever more strict immigration

¹⁹ See for example, Kitty Calavita, “Italy and the New Immigration,” in W. Cornelius, P. Martin, and J. Hollifield (eds.), *Controlling Immigration: A Global Perspective* (Stanford, CA: Stanford University Press, 1994): 303-326; Wayne Cornelius, “Spain: The Uneasy Transition from Labor Exporter to Labor Importer,” in W. Cornelius, P. Martin, and J. Hollifield (eds.), *Controlling Immigration: A Global Perspective* (Stanford, CA: Stanford University Press, 1994): 3-41; Maria Baganha, (ed.), *Immigration in Southern Europe* (Oeiras, Celta Editora, 1997); Martin Baldwin-Edwards, “The Emerging European Immigration Regime: Some Reflections on Implications for Southern Europe,” *Journal of Common Market Studies*, Vol. 35, No. 4 (1997): 497-520.

²⁰ Joppke, p. 260.

control policies can actually result in *higher* levels of illegal immigration. The logic behind this argument is that prospective migrants—denied the opportunity to migrate legally but still desperately struggling to escape poverty—create or bolster the demand for clandestine trafficking rings and give incentives to corrupt employers in the receiving country who are more than willing to hire undocumented labor at low cost and little—if any—responsibility.²¹

From the “soliciting” side, the continued flows of *illegal* immigrants may also imply the persistence of potentially “unwanted” forms of *legal* immigration—that is, forms of legal immigration which are not directly solicited by some purposeful policy program. “Soliciting” is an *active* process that implies a degree of control by the policymaking state. More fundamentally, there is the question about where “legal” immigration ends and “illegal” immigration begins. Obviously, there can be no “illegality” or “criminality” without prior definition of the bounds of “legality,” and therefore “the definition of those who are deemed to be ‘illegal’ ... shifts with the nature of immigration policy.”²²

Of course, the observation that “legality” creates “illegality” is rather trivial on its own. As applied to the Spanish case however, this point may be insightful. Calavita extends the analysis beyond simple wordplay, arguing that the tension between Spain’s domestic need for unskilled foreign labor on the one hand, and neighboring EU member-state pressure for increased control at Spain’s (and Europe’s) southern frontier on the other has produced a “series of contradictory policies [in Spain] that say one thing and do

²¹ Geddes, p. 24.

²² Samers, p. 28.

another.”²³ Consequently, according to Calavita, “While the dual rationale of [Spanish immigration policies] has been to control the border while ensuring immigrants’ rights, they do neither.”²⁴ Instead of controlling flows, she suggests that Spanish immigration policies focus on “defining levels of social and economic inclusion/exclusion,” which results in the systematic marginalization of Third World immigrants.²⁵ While Calavita’s study is dated, the key insight here is that—until very recently—any extension of legal status to undocumented immigrants in Spain has been temporary. The 2005 regularization program, for example, granted residence permits for a duration of one year,²⁶ meaning that once the permit expired, the recipient would “lose” legal status, thereby becoming “irregularized” once again.

Because of the collision—and in some cases, the fusion—between regional and domestic imperatives, immigration policy in Spain has sometimes appeared erratic, making it extremely difficult to maintain legal status in the long term. Because Spanish immigration policies “irregularize” people on a regular basis, Calavita concludes that “it makes little sense to draw distinctions between legal and illegal immigrants, as if they were different populations, because...Spanish immigration policy not only continually reproduces an extensive illegal population but also ensures the precariousness of its

²³ Calavita, p. 530.

²⁴ Ibid.

²⁵ Ibid.

²⁶ “Spain: The Normalisation of Immigrants in 2005,” *The European Foundation for the Improvement of Living and Working Conditions (Eurofound): The European Industrial Relations Observatory (EIRO)*, Online, 12 May 2005, available <http://eurofound.europa.eu/eiro/2005/03/feature/es0503205f.html>, accessed 15 February 2007.

(temporarily) legal immigrants as well.”²⁷ The “legal”/“illegal” divide is extremely significant given that the EU’s latest immigration policy structures are defined by the fight against illegal immigration, human trafficking, drug trafficking, and terrorism, among other representatives of the “dark side of globalization.” Following Amsterdam, Samers suggests that the creation of *illegal* immigration has resulted in “a re-scaling of *decision-making*” to the EU level and a “deepening and widening of control” because the Council of Ministers can much more easily agree on initiatives related to “illegal” immigration than in other migration-related issue areas.²⁸

Amnesties: A Sign of Weakness?

Regularization programs provide a concrete example of the contradictory imperatives that may contribute to the conflation of “legal” and “illegal” resident status. Indeed, in a comprehensive comparative study of immigration control policies in eight European countries, Brochmann and Hammar confirmed the regularization polemic by concluding, “Amnesties both reflect a defensive symbol of a failed external control, and at the same time represent an active internal control mechanism.”²⁹ In the Spanish case, the preceding analysis suggests that although Spanish policymakers (particularly the Socialists) would like to continue defending regularization programs as effective internal control measures, in reality such programs partially reflect both representations. .

²⁷ Calavita, p. 531.

²⁸ Samers, p. 42; see also Elspeth Guild, *EU Immigration and Asylum after the Amsterdam Treaty: Where Are We Now?* (seminar outline), paper presented at the 2nd Workshop of the UACES Study Group “The Evolving European Migration Law and Policy,” (Manchester, 11-12 April 2003), cited in Samers, p. 42.

²⁹ Brochmann, “The Mechanisms of Control,” in Brochmann and Hammar (eds.), p. 21.

It is possible that a similar conclusion may be drawn for Spain's hesitant introduction of legal quota systems. Along with regularizations, the government pursued quota policies in 1993-1995, 1997-1999, and in 2002 designed to solicit between 20,000 and 30,000 workers annually.³⁰ These policies largely failed to achieve their objectives. Until 2002, the quota systems mainly functioned as an additional—albeit unintended—regularization mechanism, as undocumented immigrants already living in Spain filled many of the applications. In 2002 the system was reformed to solicit workers directly from origin countries through bilateral agreements. However, a clear goal underlying the reform was to limit illegal immigration, which ultimately had the effect of setting inadequately low quotas that failed to meet labor market needs. Although both employers and labor unions agreed that the 2002 quota of 32,079 workers was far too low, in 2003 the government further reduced the quota to 24,337.³¹ Hence, in this case the government's restrictive focus even in a soliciting-type policy undermined the national best interest.

Collective Action Problems and Spanish Leadership: Who has Failed Whom?

The “failure” of policies aimed at restrictive targets is most visibly evidenced by the fact that unwanted immigration—of which illegal immigration from Africa is currently the most obvious case—continues despite such policies (or *because* of them, as critics

³⁰ Nieves Ortega Pérez, “Spain: Forging an Immigration Policy,” *Migration Information Source*, [Online], February 2003, available <http://migrationinformation.org/Feature/display.cfm?ID=97>, accessed 10 December 2006; Joaquín Arrango, “Becoming a Country of Immigration at the End of the Twentieth Century: The Case of Spain,” in Russell King, Gabriella Lazaridis, and Charalambos Tsardanidis (eds.), *El Dorado or Fortress? Migration in Southern Europe* (Houndsmills, Basingstoke, Hampshire, New York, NY: Palgrave Macmillan, 2000), pp. 253-276, p. 259.

³¹ Ortega Pérez, “Spain: Forging an Immigration Policy.”

argue). Although the 1991 regularization legalized 110,000 irregular workers, an estimated 200,000 to 300,000 undocumented immigrants resided in Spain only two years later.³² Estimates of the number of illegal immigrants in Spain by 2005 shot as high as 1.5 million, despite three additional regularizations in 1996, 2000, and 2001.

The talk of “failure” in *Spanish* policies is misleading because this state of affairs is suggestive of a need for more far-reaching solutions to a problem that clearly neither begins nor ends at a single border. Politicians and civil servants in southern European countries—especially Spain—have consistently made this argument by drawing on moral considerations in their pleas for improved cooperation in immigration policy.³³ In this sense, the controversy over the 2005 Spanish amnesty, the policy “failures” of other amnesties, and the “failures” of the Spanish quota systems outlined above indeed reflect a *European* problem rather than a purely Spanish one.

No Longer Learning: Is Spain Becoming a Policy Role Model?

In fact, other countries across the globe have begun looking to Spain for examples of *desirable* policies, citing Spanish-style amnesties and quotas as precisely the examples to follow. Joppke notes that although the initial quotas in Spain did not fully succeed, “in introducing the very concept of legal quota immigration, southern European states have pioneered an entirely different, ‘soliciting’ approach to immigration policy” a change that

³² Wayne Cornelius, “Spain: The Uneasy Transition from Labor Exporter to Labor Importer,” in W. Cornelius, P. Martin, and J. Hollifield (eds.), *Controlling Immigration: A Global Perspective* (Stanford, CA: Stanford University Press, 1994), pp. 331-369, pp. 335-344.

³³ “Italy, Spain to Work Together for Single EU Stance on Immigration,” *International Herald Tribune, Europe*, The Associated Press [on-line], 16 October 2006, available http://www.iht.com/articles/ap/2006/10/16/europe/EU_GEN_Spain_Italy.php, accessed 10 December 2006; “EU Nations Clash over Immigration,” *BBC News International*, [periodical on-line], 22 September 2006, available <http://news.bbc.co.uk/2/hi/europe/5369986.stm>, accessed 15 February 2007.

is “ringing in Europe.”³⁴ Similarly, despite northwestern countries’ criticisms of the 2005 regularization, several of those very same countries (e.g., Germany and the Netherlands) have since implemented their own regularization processes to manage illegal immigrants.³⁵ Spanish leadership in these policies extends its influence into transatlantic relations as well. The director of the United States Citizenship and Immigration Service (USCIS) Emilio González said that a program similar to the 2005 Spanish amnesty could form a “pillar of US immigration policy.”³⁶ Moreover, with the increasing salience of fighting *illegal* immigration on the EU agenda, and as a result of the difficulty in achieving the restrictive goals of *proximate* control, Spain—like the northwestern “core” countries and EU institutions—has increasingly moved to externalize control.

Unlike many of the “core” countries, however, Spain has recently born the brunt of externalization. Instead of expressing frustration, Spanish actors have increasingly represented a mature, “European” Spain ready to lead the way for innovative immigration policies which endeavor to surpass the more common European approach “tackle illegal migration at its source,” which they feel is often more dissociated and self-interested than altruistic and responsible. Instead of simple readmission agreements and vaguely defined developmental aid, actors in both the Spanish state and society at large advocate more direct engagement with source countries in addition to acknowledging of the benefits of policies intended to solicit certain forms of legal immigration.

³⁴ Joppke, pp. 274-275.

³⁵ “Caldera Pone Política de Inmigración Española Como Ejemplo a Seguir,” *Terra Española* [periodical on-line], 23 March 2007, available http://actualidad.terra.es/nacional/articulo/caldera_pone_politica_inmigracion_espanola_1474058.htm, accessed 23 March 2007.

³⁶ “Director Inmigración EEUU Dice que Aprendió del Proceso de Regularización Español,” *Terra Español* [periodical on-line], 22 March 2007, available http://actualidad.terra.es/nacional/articulo/director_inmigracion_eeuu_1471488.htm, accessed 23 March 2007.

In this regard, Spain is also becoming an immigration policy entrepreneur for European relations with Africa. Spain's introduction of a guest worker program has been cited as a "test case" for the EU.³⁷ Indeed, many Spanish actors are playing prominent roles in current and pending developments in EU immigration policy. These include promoting development in Africa, fighting human trafficking rings, Spain-Africa business cooperation to facilitate direct investment by Spanish businesses in the private sectors of African countries,³⁸ and similar moves aimed at "stopping illegal immigration at its source" while simultaneously promoting the forms of legal immigration that Europe needs to counter aging and shrinking populations. These highly demanding policy structures represent Spanish *foreign policy* as well as immigration policy.

The Spanish government has also worked closely with supranational institutions and NGOs in these efforts. In 2007 the EU's development commissioner accompanied Spain's director general of immigration in a trip to Malí, where they jointly proclaimed the establishment of the first European job center in that country.³⁹ Spain's proactive foreign and immigration policies form part of the broader theme of externalization within EU immigration policy structures. At the same time, the pioneering approaches of Spanish actors have significant implications for the *future* of the externalization movement.

³⁷ Gerson, "Spain's Guest-Worker Program Provides Test Case for EU."

³⁸ Alicia Fraerman, "Spain-Africa: Support Development, Fight Trafficking Rings to Curb Migration," *Inter Press Service News Agency* [periodical on-line], 21 September 2006, available from <http://www.ipsnews.net/news.asp?idnews=34827>, accessed 10 October 2007.

³⁹ Gerson, "Spain's Guest-Worker Program Provides Test Case for EU."

Externalization and Exportation of Control

In an attempt to ease the burden of control inherited by economic integration with the European “core,” the Spanish government has elaborated a web of bilateral and multilateral agreements with “transit” and “source” states such as Morocco and Algeria, in addition to Romania, Bulgaria, Ecuador, Colombia, and the Dominican Republic, among many others.⁴⁰ The tendency to externalize control originates from the visible obstacles to achieving full “control” in the immediate surroundings, gaining momentum after the Al-Qaeda terrorist attacks of 11 September 2001 and 11 March 2004. Indeed, Human Rights Watch reported that Spain was the first country in Europe to “openly equate the fight against illegal immigration with the war on terrorism” immediately following September 11th.⁴¹

The externalization movement in Spain also stems from the broader regional repertoire of market-making mechanisms and their counterparts in “compensatory” control efforts. Bilateral agreements between Spain and African countries are often facilitated and/or accompanied by both the formal and/or informal commitments of a host of other actors which may include some or all of the other member states, the Commission, other supranational institutions, and/or non-state actors and private enterprises. Although Spanish-Moroccan relations—for instance—may possess a history independently of the EU, the form and substance of those relations are also rooted in

⁴⁰ [COM(2004) 412 final], “Communication from the Commission to the Council, the European Parliament, The European Economic and Social Committee and the Committee of the Regions: Study on the Links between Legal and Illegal Migration,” Brussels, 4.6.2004, p. 7 of 20, emphasis in original.

⁴¹ “The Aftermath of September 11: The Tightening of Immigration Policies.” Statement by Human Rights Watch on the Occasion of the Euro-Mediterranean Civil Forum, Valencia, Spain, 13 April 2002; cited in Omar G. Encarnación, “The Politics of Immigration: Why Spain is Different,” *Mediterranean Quarterly* (Fall 2004): 167-185, p. 184.

Community precedent and the control aspects in particular are the product of socialization within European policy structures.

In 1978 the EC signed Cooperation Agreements with Algeria, Morocco, and Tunisia related to free movement and the Community's market-making competencies.⁴² Each Agreement established an independent Council, which represented the Council of Ministers, the Commission, and the applicable governments. The professed purpose of these Agreements was to establish cooperation in the "Field of Labor," whereby workers from the Association states and their family members would be free from discrimination on the basis of nationality regarding working conditions, wage levels, and social security benefits in the member state in which they found employment.⁴³

Because these Cooperation Agreements—and other international agreements such as the 1964 Association Agreement with Turkey⁴⁴—extended (more or less) directly from the market-making competencies of formal supranational institutions at the EC level, the decisions taken by the independent Councils are legally binding on all signatories of the Agreement and the ECJ has jurisdiction to arbitrate. In 1990 the ECJ reviewed the *Kziber* case, in which a Moroccan national—living with her father (also a Moroccan national) who had worked in Belgium and subsequently retired there—filed a discrimination complaint after the Belgian government denied her special unemployment benefits during a leave of absence for educational purposes. The Court ruled in favor of Mrs. Kziber, holding that the principles of non-discrimination regarding social security

⁴² [Council Resolutions 2210/78 (Algeria), 2211/78 (Morocco), 2212/78 (Tunisia)]; All three took place on 27 September 1978, cited in Geddes, p 53.

⁴³ Geddes, p. 53.

⁴⁴ *Ibid.*, p. 52.

benefits contained in Article 41(1) of the Cooperation Agreement with Morocco had direct effect.⁴⁵

The current externalization policy slate contains readmission agreements, police cooperation with sending and transit states, carrier sanctions, ‘safe countries’ of asylum, developmental aid, and the establishment of job centers in receiving countries, among other mechanisms. The externalization movement is a complicated picture, involving bilateral and multilateral agreements, intergovernmental forums, global summits, supranational engagement involving a variety of actors including the EU and the UN among others, transnational NGOs, and non-state actors and private companies such as Europol and airline companies. In Spain’s case, the externalization of immigration control has taken the form of an activist foreign policy, encompassing relations with countries in North Africa, sub-Saharan Africa, and Latin America, in addition to many overlapping and often conflicting relations with various subsets of “Europe.” Due to the salience of African immigration to this thesis, Spanish-African relations are the focus of the following discussion.

Spanish-African Relations: Where Immigration Policy meets Foreign Policy

Morocco is one of several major passageways to Europe for illicit African migrants. Spain’s two North African enclave cities—Ceuta and Melilla—are nested within Moroccan territory, wedged on the northwestern tip of Africa, with the vast African continent staring them in the face and the Strait of Gibraltar at their backs. These cities

⁴⁵ ECJ (Case C-18/90 *Kziber* [1990] ECR I-199); see analysis in Willy Alexander, “Free Movement of Non-EC Nationals: A Review of the Case-Law of the Court of Justice,” *European Journal of International Law*, Vol. 3, No. 1 (1992): 53-64, p. 62.

are major targets for Moroccans and Algerians, as well as migrants from Nigeria, Sierra Leone, Mauritania, Cameroon, Senegal, Mali, and an even wider circle of source countries extending as far as Iraq, other Middle Eastern countries, and Asian countries.⁴⁶ More than prime targets for illegal immigrants, Spain's barbed-wire-surrounded enclave cities represent a considerable thorn in the Spanish-Moroccan relationship. Put simply, the enduring quasi-colonial Spanish presence on the African continent incites resentment among Moroccans who contend that Ceuta and Melilla are Moroccan territory.

This border dispute severely complicates cooperation agreements between the two countries. Following a failed "Treaty of Friendship" in 1991, a frustrating bilateral readmission agreement between Spain and Morocco has been in place since 1992, consisting of Spanish financial aid and Moroccan obstinacy.⁴⁷ In short, Spain expects Morocco to control entry into these slivers of Spanish territory. However, although geographically impossible to have reached Ceuta or Melilla without having transited through Morocco, Moroccan officials often refuse to readmit illegal immigrants who have reached these Spanish holdings, demanding the impossible task of proving concretely that the migrants in question traveled through Morocco.⁴⁸

An additional source of tension in Spanish-Moroccan affairs stems from the alleged mistreatment of Moroccan immigrants upon entering (or exiting) Spanish territory and once residing and/or working in Spain. In 1991, Spain established visa requirements for nationals of the Maghreb countries as part of a more general tightening of its border

⁴⁶ Keith B. Richburg, "At Spain's Gate, Africans Dream of Europe," *Washington Post*, [periodical on-line] 28 March 2001, available http://www.uniset.ca/microstates/wp_melilla.htm, accessed 22 December 2006.

⁴⁷ Laura Huntton, "Immigration to Spain: Implications for a Unified European Union Immigration Policy," *International Migration Review*, Vol. 32, No. 2 (Summer 1998): 423-450, pp. 439-440.

⁴⁸ Joppke, p. 272.

policy to conform to EU goals and concerns.⁴⁹ This meant that, unlike nationals of other former Spanish colonies in Latin America and the Philippines, Moroccan immigrants had no privileged status. Moreover, there is a controversy between the two countries regarding entry of TCNs more generally. In June 21, 1996, Spanish authorities allegedly demonstrated wild misconduct during deportations of illegal immigrants from Melilla by preventing access to legal counsel and administering sedatives to the deportees, some of whom were not sent to their home countries.⁵⁰

Despite these clear stumbling blocks, more recently the PSOE government declared that relations with Morocco since 2003 have been “very positive” and that Morocco has demonstrated a “clear desire to cooperate with Spain” in the fight against illegal immigration.⁵¹ Illegal immigration, terrorism, and drug trafficking have become the focal points of Spanish-Moroccan relations in the new millennium. Interestingly, this clearly securitized agenda—which arguably originated in the northwestern European core and solidified in Spain following the 2001 and 2004 Al Qaeda attacks—has been embraced in an extra-EU partnership that Spain nevertheless equates with broader relations between two entire continents. In 2004, Spanish Deputy Prime Minister Maria Teresa Fernandez de la Vega declared, “Morocco and Spain are showing...that there are not two opposing civilisations, the Arab civilisation and the Western civilisation, but there is a single

⁴⁹ Huntoon, p. 439.

⁵⁰ “El Juez Toma Cartas en el ‘Caso Melilla’,” *El Periódico* (July 23, 1996), p. 13; “Escándalo por las Expulsiones de Melilla,” *El Periódico* (July 20 1996), p. 15; “Varapalo a las Expulsiones de Melilla,” *El Periódico* (July 17, 1996), p. 17; cited in Laura Huntoon, “Immigration to Spain: Implications for a Unified European Union Immigration Policy,” *International Migration Review*, Vol. 32, No. 2 (Summer 1998): 423-450, pp. 439.

⁵¹ “Spain-Morocco: Fight Against Illegal Immigration to Top Summit Agenda,” *Adnkronos International: The Global Information Gateway*, [Online] 5 March 2007, available http://www.adnki.com/index_2Level_English.php?cat=Security&loid=8.0.392001364&par=0, accessed 12 March 2007.

civilisation which confronts the barbarism of terrorism firmly.”⁵² That illegal immigration and terrorism are explicitly joined together in a single foreign policy agenda is extremely revealing. Specifically, the current form of cooperation between Spain and Morocco strongly reflects the securitarian norms cemented in the European core.

Spain’s foreign policy engagements with Morocco are part of much wider policy structures. In March 2007, Spain signed six bilateral cooperation agreements with Algeria, touching upon subjects such as aviation, pollution, and immigration.⁵³ Moreover, Spain has been a leading supporter for broader transcontinental cooperation between Europe and Africa on the issue of illegal immigration. In July 2006 Spain and Morocco organized the first Euro-African conference in Rabat, where 57 countries crafted a four-year plan to fight illegal migration destined for Europe. The many agreements that comprised this plan included repatriation arrangements between European receiving countries and African countries of origin, surveillance of potential immigrants, and police cooperation.⁵⁴

In addition, as migration continues from an increasingly wide range of sources, Spain’s control agenda itself has migrated further South along the West African coast. Like Ceuta and Melilla, the Canary Islands are Spanish possessions left over from the colonial area, but located even further away from Spanish-proper. Positioned off the coast of southern Morocco and the Western Sahara, the Canaries are much closer to a

⁵² “Spain Visit Boosts Moroccan Ties,” *BBC News International*, [periodical on-line], 24 April 2004, available <http://news.bbc.co.uk/2/hi/europe/3654943.stm>, accessed 12 January 2007.

⁵³ “Algeria, Spain Sign Agreements on Aviation, Pollution, Immigration,” *People’s Daily Online*, [periodical on-line], 14 March 2007, available http://english.people.com.cn/200703/14/eng20070314_357454.html, accessed 16 March 2007.

⁵⁴ “Spain-Morocco: Fight Against Illegal Immigration to Top Summit Agenda.”

wider circle of African countries such as Mauritania, Senegal, Mali, and Sierra Leone. Indeed, these islands bore the brunt of the 2006 crisis, having become prime targets for illegal migrants.

In late May 2006, Spain finally got a response to its pleas for EU help in managing migratory pressures in that region. On May 30, the EU's border security agency Frontex announced that Spain would receive boats, planes, and patrollers from eight countries (later becoming nine when Portugal joined) in order to more effectively guard the northwest African coastline stretching from Morocco to Senegal.⁵⁵ Frontex pledged 2.1 million euros—a sizeable 16.4% of its total budget of 12.8 million—to the Canary Islands and Malta, and offered technical assistance to help “assure the proper flow of information about illegal immigrants, to [help] Europol with the identification of traffickers, and to [help] the Spanish authorities with repatriations,” according to Frontex spokesman Michal Parzyszek.⁵⁶

Such efforts however, are also controversial. For many critics, policing and a strict “control” focus are inadequate. Migrants’ rights activists argue that education, job training, and ensuring stability in the source countries will provide the proper—and responsible—solution. Frontex members themselves are unsure of the efficacy of border patrolling. Parzyszek warns, “It’s already visible that border controls and law enforcement by themselves cannot solve the migrant problem...The other actors, the [EU] member states, have to think further about what they can do.”⁵⁷ Restrictive control

⁵⁵ Geoff Pingree and Lisa Abend, “Spain Gets a Bouncer for its Borders,” *The Christian Science Monitor*, [journal on-line], 08 June 2006, available <http://www.csmonitor.com/2006/0608/p07s02-woeu.html>, accessed 10 February 2007.

⁵⁶ Ibid.

⁵⁷ Ibid.

policies, having been exported to Morocco, simply delay the inevitable. On the surface, Morocco's 2005 crackdown on illegal immigration (in response to pressure from Spain and other European actors) seemed enormously effective after a 40 percent dive in 2006 in the number of illegals reaching Spain directly from Morocco.⁵⁸ However, the 100-million-euro per year project—comprising a taskforce of 11,000—did not ultimately match the intent.⁵⁹

Rather, Mauritania became the transit country of choice for illegals destined for the Canaries instead of Morocco. After Spain deported migrants back to Mauritania, the desired effect was again evasive. This time, immigration flows originated from Senegal, showing the resilient tendency of illegal migration to move further South along the West African coast. The words of relief worker Gonzalo Andrade accurately capture the forewarning to those who seek to control immigration:

I have a map of Africa on my wall, a topographical map with no frontiers marked...On it, all I can see is that the Canaries are very small and the coastline of Africa is very big. Stop immigration in one place, and it will pop up in another. And that place will be further away, and more dangerous.⁶⁰

This premonition figures as a central concern in the debate on externalization and exportation as effective control mechanisms, the argument being that externalization provides a temporary solution for the developed countries seeking to stem flows. For example, the “safe country” principle of the Dublin Convention was originally intended for other *European* countries, but has been extended to a variety of African and post-Soviet states. This form of exportation has been described as an “easy way out for

⁵⁸ “Spain-Morocco: Fight Against Illegal Immigration to Top Summit Agenda.”

⁵⁹ Ibid.

⁶⁰ Pingree and Abend, “Spain Gets a Bouncer for its Borders.”

developed countries” that can impose their preferences on weaker countries.⁶¹ Because the transit and source countries that inherit the burden of European control are weaker, they tend to have less developed institutions for controlling migration and also may be less equipped to protect migrants’ rights.

Figure 4.1 Key Migrant Routes from Africa to Europe



Source: “EU Unveils New Immigration Plans,” *BBC News International*, [periodical on-line], 30 November 2006, available <http://news.bbc.co.uk/2/hi/europe/6160633.stm>, accessed 10 February 2007.

Samers posits that such externalization and exportation of control reflects a different version of Guiraudon’s “venue shopping” whereby countries find it much easier to “construct a security agenda abroad far from the watchful eye of Brussels-based NGOs

⁶¹ Corrado Bonifazi, “European Migration Policy: Questions from Italy,” in Russell King, Gabriella Lazaridis, and Charalambos Tsardanidis (eds.), *El Dorado or Fortress? Migration in Southern Europe* (Houndsmills, Basingstoke, Hampshire, New York, NY: Palgrave Macmillan, 2000), pp. 235 – 252, p. 246.

and human rights campaigners, than...to legitimate it in the EU and its Member States.”⁶²

The humanitarian concerns involved in immigration control constitute a deep moral dilemma for the receiving countries in the “core,” a sensitivity that southern European countries have capitalized on in their arguments for improved cooperation. Spain, Italy and six other member states in the Mediterranean sent a letter to the EU in 2006 insisting upon a common immigration policy and demanding that the EU “do more to stem the tide of destitute Africans trying to gain a foothold in Europe.”⁶³ Spain and Italy in particular have pursued this normative line of persuasion in order to convince the rest of Europe of the continental (and indeed, global) scope of the problem. After talks with Zapatero in October 2006, Italian Premier Romano Prodi announced that immigration is “a problem for our continent...We can’t resolve this problem country by country...We have to work together to achieve a regulated flow of immigration and against illegal immigration.”⁶⁴

Similarly, Zapatero said the two countries would continue to push for harmonization:

We coincide totally in that immigration is a European matter. The perfect proof is that Spain and Italy are going through similar experiences...Italy and Spain are going to speed up and intensify the effort to ensure that immigration is a European issue because it deals with economic and development relations of two continents, Europe and Africa.⁶⁵

By pushing the agenda beyond simple border controls and readmission agreements, countries like Spain form part of a movement that pulls immigration into EU foreign relations more generally.

⁶² Samers, p. 43.

⁶³ “Italy, Spain to Work Together for Single EU Stance on Immigration,” *International Herald Tribune, Europe*, The Associated Press [on-line], 16 October 2006, available http://www.ihf.com/articles/ap/2006/10/16/europe/EU_GEN_Spain_Italy.php, accessed 10 December 2006.

⁶⁴ Ibid.

⁶⁵ Ibid.

Spanish Affinity with “Europe”: A Special Relationship

“España es una de las grandes naciones históricas de Europa.”

-Benjamín Michavila⁶⁶

Spain’s connection to Europe is strong. Interestingly, both European integration and immigration have been central factors in securing a healthy, steady, and rapid growth of the Spanish economy. Indeed, aspects of the “Spanish miracle” seem to have continued—even accelerated—throughout the two decades since reconnecting with Europe. Since joining the EC, Spain has grown to the eighth largest economy in the world.⁶⁷ At the same time, such a massive transformation implies new responsibilities. In 2007 Spain reached another milestone in becoming the second receiving country of immigrants, behind the United States.⁶⁸ Spain’s 4.1 million immigrants, 700,000 of which obtained nationality between 2000 and 2006, now make up almost 11 percent of the Spanish population, according to a Banco Bilbao Vizcaya Argentaria (BBVA) report entitled “The Demography of Foreigners in Spain.”⁶⁹

Spain also has a more direct national interest in promoting legal immigration to combat aging and shrinking populations in the EU. The statistics suggest that Spain will

⁶⁶ Benjamín Michavila, *España en la Nueva Europa* (Fundación para el Análisis y los Estudios Sociales, 2000), p. 439.

⁶⁷ “Ocupa España Segundo Lugar en Recepción de Inmigrantes,” *El Porvenir* [periodical on-line], 22 March 2007, available http://www.elporvenir.com.mx/notas.asp?nota_id=121638, accessed 23 March 2007.

⁶⁸ Ibid.

⁶⁹ Ibid.

be especially hard hit by the more general European problem associated with aging populations. *La Vanguardia* reported in March 2007 that Eurostat estimates placed Spain as having one of the lowest proportions of young people in all of Europe by 2050. Currently 26.4 percent of Spaniards are under the age of 25, compared with the European average of 28.6 percent. By 2050, it is estimated that only 19.7 percent of Spaniards will be under 25, second only to Italy with 19.6 percent.⁷⁰

Spain's substantial international influence has also led one historian to conclude that "Spanish prestige abroad is higher now than at any time in the past 200 years."⁷¹ This is incredibly significant given that on immigration and asylum policy Spain is among the "maximalists," along with Germany, Belgium, Italy, Greece, the Netherlands, Ireland, and the Commission.⁷² The "mission creep" down the African coast to countries with even lesser capacity to control migration or secure migrants' rights is—like the other "failures" of Spanish policies—indicative of the *necessity* for greater cooperation in Europe, or even harmonization. The fact that Spain has led the charge for Euro-African relations is interesting given the good relationship between Spain and the Commission in this matter. This relationship, combined with the more general Spanish *identity* with Europe, could open the doors for a more consolidated foreign policy role for EU level institutions in the future.

⁷⁰ "España Será el Segundo País de la UE con Menor Proporción de Jóvenes en 2050," *La Vanguardia* [periodical on-line], 23 March 2007, available <http://www.lavanguardia.es/gen/20070323/51315828207/noticias/espanya-sera-el-segundo-pais-de-la-ue-con-menor-proporcion-de-jovenes-en-2050-eurostat-holanda-italia-eslovaquia-dinamarca-bulgaria-polonia-europa.html>, accessed 23 March 2007.

⁷¹ Edward Malefakis, remarks at conference, "Spain on the Eve of the General Elections," Council on Foreign Relations, New York, New York, May 3, 1993, cited in Kenneth Maxwell and Steven Spiegel, *The New Spain: From Isolation to Influence* (New York: Council on Foreign Relations Press, 1994), pp. 1-2.

⁷² Geddes, p. 90.

Immigration and the CFSP?

This raises the interesting possibility that immigration policy structures may contribute to the substance of discernible a foreign policy agenda at the EU level, which has far-reaching implications for the entire structure of the EU, as immigration may provide an avenue for connecting all three pillars of the Maastricht Treaty. Amsterdam already transferred immigration and asylum from the third pillar on JHA (now Police and Judicial Co-operation in Criminal Matters, PJCC) to the integrated community first pillar. Recent efforts have further implicated *illegal* immigration in the second pillar's Common and Foreign Security Policy (CFSP). As the Commission itself has stated,

In order to be effective, the objectives of a Community policy on illegal migration need to be taken into account in the global framework of the EC's relations with third countries. The Seville European Council left no doubt that combating illegal immigration requires a greater effort by the European Union and a targeted approach to the problem, with the use of all appropriate instruments in the context of the EU's *external relations*, while pursuing the constant long term goal to develop an integrated, comprehensive approach to tackle the root causes of illegal immigration.⁷³

By 2003, the Council of Ministers had already authorized the Commission to represent the entire Community in the administration of agreements with Morocco, Sri Lanka, Russia, Pakistan, Hong Kong, Macao, Ukraine, Albania, Algeria, China, and Turkey.⁷⁴

The Commission recognized southern European countries' increased agency in pursuing

⁷³ [COM(2003) 323 final], "Communication from the Commission to the European Parliament and the Council in View of the European Council of Thessaloniki: On the Development of a Common Policy on Illegal Immigration, Smuggling and Trafficking of Human Beings, External Borders and the Return of Illegal Residents," Brussels, 3.6.2003, p. 12 of 21, emphasis added.

⁷⁴ Ibid., pp. 13-14.

such agreements and soliciting legal forms of immigration from transit and source countries, and emphasized Spain as an illustrative case study.⁷⁵

The Commission also emphasized in a 2001 Communication on a “Common policy on Illegal Immigration” that the EU should “use its *political weight* to encourage third countries which show a certain reluctance to fulfill their readmission obligations,” which Cholewinski argues represents a “stick” approach to external relations rather than a series of “carrots.”⁷⁶ The EU’s external policy may be producing a “new geography of remote control,”⁷⁷ contributing to a process of “geographical spillover” that brings an increasing number of countries and actors into a European agenda. Such spillover reflects both the brute power of European countries to impose their preferences on third countries as well as—especially in the Spanish case of introducing job centers and promoting more direct contact with African countries—a form of social power that socializes African actors into a European sphere.

Conclusion: Foreign Policy, Various “Europe(s),” Geographical Spillover?!

As the EU celebrated its fiftieth birthday in March 2007, Spanish vice president María Teresa Fernández de la Vega expressed that although Spain was not among the

⁷⁵ [COM(2004) 412 final], “Communication from the Commission to the Council, the European Parliament, The European Economic and Social Committee and the Committee of the Regions: Study on the Links between Legal and Illegal Migration,” Brussels, 4.6.2004, p. 7 of 20, emphasis in original.

⁷⁶ Commission of the European Communities, *Commission Communication to the Council and the Parliament on a Common Policy on Illegal Immigration*, November 15 [COM (2001) 672 final], cited in Ryszard Cholewinski, *EU Policy on Irregular Migration: Human Rights Lost*, Paper submitted for the Conference on Irregular Migration and Human Rights (University of Leicester, 28-29 June 2003), p. 14, emphasis by author, further cited in Samers 2004, p. 39.

⁷⁷ Samers, p. 40.

founding countries, it is now “among the most convinced and the most engaged” member states.⁷⁸ At the anniversary celebration in Berlin in March 2007, Fernández de la Vega declared immigration as one of the major challenges facing Europe in the years to come, alongside climate change, energy supply, security, and the fight against terrorism.⁷⁹ To celebrate the fiftieth anniversary of the signing of the Treaty of Rome, the challenges to come in the next phase in the EU’s history were delineated in the Berlin Declaration, in which Zapatero boasted “Spain is very present,”⁸⁰ especially in recognizing the fight against illegal immigration as a primary EU agenda. At the request of Spain, the German EU Presidency added a paragraph to the Declaration stating, “We will fight terrorism, organised crime and illegal immigration together.”⁸¹

This simple phrase captures the culmination of immigration policy Europeanization up to this point, and is a profound indicator for the future. The “fight” against the implications of the so-called “dark side of globalization” has become an EU mantra, an agenda that demonstrates the combination of both facets of the “two-speed” integration process produced as a result of intergovernmental and supranational structures capitalizing on distinct sets of the myriad issue linkages implied by migration. On the one hand, the grouping of immigration with transnational crime and terrorism is testimony to the “stickiness” of the securitarian frame initially cemented within the

⁷⁸ “F. Vega: Aungue España No Fue Fundadora UE Está entre Países Más Comprometidos,” *Terra España*, [periodical on-line], 23 March 2007, available http://actualidad.terra.es/nacional/articulo/fvega_espana_ue_1472716.htm, accessed 23 March 2007.

⁷⁹ Ibid.

⁸⁰ Helena Spongenberg, “Spain Injects Immigration into EU Birthday Text,” *EUobserver*, [on-line], 26 March 2007, available <http://euobserver.com/22/23776>, accessed 27 March 2007.

⁸¹ Ibid.

secretive “infra-processes” favored by police officials of the rival transgovernance stage. On the other hand, “the “fight” against illegal immigration consists of tackling the “root causes,”⁸² a policy program that—despite the clear “stemming” objective—increasingly entails developmental aid and other mechanisms flavored by humanitarian norms elaborated in the Commission and international organizations like the UN.

Spain’s clear agency in the continuously evolving structures of an emergent EU global immigration regime also raises some interesting identity questions about “Europe(s).” First, the EU has not yet presented a united front in dealing with illegal immigration. Instead, the Commission’s Communications reflect a web of state and non-state actors engaged in a web of multilateral, bilateral, intergovernmental, supranational, and privatized initiatives and agreements that produce and reproduce the externalization and exportation of control. Some countries—several of the Mediterranean countries, for example—are more involved than others, and the governance regime is segmented into separate and sometimes overlapping sub-European regional alliances through separate programs. For example, MEDA—a Justice and Home Affairs Regional Program involving the Mediterranean—intends to build common policy structures exclusively in that region, supported by police cooperation at various Mediterranean ports of entry through the EUROMED data network.⁸³ Spain’s actions are not isolated, however. Spain’s multiple agreements, commitments, normative arguments, relationships, and policy agency create social processes and structures that—in the words of Ulrich Krotz—

⁸² [COM(2003) 323 final], “Communication from the Commission to the European Parliament and the Council in View of the European Council of Thessaloniki: On the Development of a Common Policy on Illegal Immigration, Smuggling and Trafficking of Human Beings, External Borders and the Return of Illegal Residents,” Brussels, 3.6.2003, p. 12 of 21

⁸³ Samers, p. 39.

are necessarily “part of a systemic social structural context that helps to frame issues, that more generally and indirectly affects states’ external relations, and that helps to define specific interstate relationships.”⁸⁴ Spanish actorhood in migration-related processes therefore constructs relationships that constitute a particular form of Europeanization, defined quite differently from most of the prevailing literature.

Second, the notion of geographical spillover therefore calls into question the very physical limits of Europe. It seems clear that Europe no longer ends at the Pyrenees, although some would even challenge this assumption. A Moroccan immigrant charges, “Spanish politicians are wrong: Spain is not the south of Europe as they think it is: Spain is the north of Africa, and they are closer to us than to the Europeans.”⁸⁵ Moreover, Joppke logically assumes that the “southern border through the Mediterranean Sea is a permanent border, forever dividing Europe from the African continent.”⁸⁶ However, the Spanish boost for Euro-African relations, the web of Spanish-African international agreements, the externalization of control deeper South, the creation of job centers and guest worker programs in Senegal and Mali,⁸⁷ and plans to build an underwater tunnel from Morocco to Spain—forever *connecting* the two continents⁸⁸—all serve to bring Europeans and Africans in closer contact with one another. Given this state of affairs, does Europe necessarily end at Gibraltar?

⁸⁴ Krotz, “Parapublic Underpinnings of International Relations,” p. 5 of 23.

⁸⁵ Encarnación, “The Politics of Immigration: Why Spain is Different,” p. 172.

⁸⁶ Joppke, p. 268.

⁸⁷ Gerson, “Spain’s Guest-Worker Program Provides Test Case for EU.”

⁸⁸ “Africa and Europe Set for Tunnel Link,” *North Region News, Africast* [on-line], 13 March 2007, available <http://news.africast.com/africastv/article.php?newsID=61463>, accessed 15 March 2007.

CHAPTER SIX CONCLUSIONS

The case of Spanish immigration policies within and without EU structures is emblematic of the successes, failures, and future direction of European immigration policy, and sketches profound implications at the most general level for EU foreign policy, and the theories and practices of European integration, Europeanization, and international relations. Modern Spain continues to be a major pro-European force and Spanish elites are outspoken in their connection to “Europe,” raising all sorts of questions about “European” identities, especially because immigration is by definition an issue inextricably linked to identity. Immigration control requires definitions of “insiders” vs. “outsiders,” “us” vs. “them,” and “Europeans” vs. “foreigners.” Therefore, that Spain is both heavily pro-European *and* shaped by the historical experience of emigration helps elucidate many of the central questions about the politicization of immigration in Europe.

Synthesizing Key Findings and Insights

This thesis has advanced a three-stage approach to the difficult and uncommon task of disaggregating the complex interrelationships between, among, and across domestic actors, politics, and policymaking on the one hand, and supranational/regional structures on the other. Using the case of immigration policy structures in the European Union and

in Spanish domestic politics, I investigated three major questions, pursued in three partially overlapping research stages. I suggest that the nuanced insights gained through this approach help contribute, if only as a beginning, to a colorful understanding of the overarching mutually constitutive effects of various agencies and structures at multiple levels of European immigration governance.

First, I offered a *rival transgovernance* framework that draws upon previous research in order to place agency within the many initial issue-framing “infra-processes” that resulted in the construction of immigration as principally a security issue rather than a political economy one. In the 1970s and 1980s, security officials created secretive transgovernmental cooperation structures that “securitized” immigration along with other post-Cold War “new security” threats. The particular actors and structures that won out over other “infra-processes” in a (then) “new” policy domain can be explained by access to state power within a decentralized institutional structure. The security mindset—which reflected actors’ preferences produced by socialization within their own professional subcultures—underpinned subsequent policy structures and gradually blended with goals constructed by alliances between the Commission and pro-migrant groups, including “social inclusion,” “anti-discrimination,” and “anti-racism.”

An evolutionary map of immigration policy structures in Europe therefore reflects a “two-speed” integration process marked by a division of labor between intergovernmental and supranational agents and structures seeking to advance their respective authority by managing distinct migration-related issues. Two broad themes emerge from this picture: (1) commitments to “control” and “social inclusion” existing

alongside overlapping cycles of restriction and expansion, and (2) the externalization and exportation of control increasingly further from the European “core.”

Second, the domestic politics case of Spanish immigration policies since the 1980s suggested that domestic factors conflicted with regional factors, creating problems of interpretation, internalization, and implementation. The discrepancies between domestic and regional preferences, in turn, gave rise to two coexistent, competitive, and partially overlapping impetuses that resulted in increasingly restrictive and control-oriented policy outcomes combined with “social inclusion” goals enjoying varying success. This “top-down” stage demonstrated that restrictive impulses could not be explained by domestic factors alone. Historical, economic, institutional, political, cultural, ideational, and ideological factors at the domestic level all led to the expectation of liberal, pro-immigrant/immigration policies. Therefore, the restrictive tendencies in Spain were determined predominantly by elite considerations, which reflected the combination of an active pro-European stance, a pro-immigrant attitude, and sovereignty considerations, especially following the 2001 and 2004 terrorist attacks in New York and Madrid.

Third, the final stage portrayed a Spanish state and society transformed by EU membership, having grown over a few short decades from an isolated and underdeveloped country to an economic powerhouse with extensive global influence, ranking as the top immigrant receiving country in Europe and the second in the world behind the United States. I suggested that the “sorcerer’s apprentice” controversy surrounding the massive 2005 immigrant amnesty and several perceived Spanish immigration policy “failures” in reality represented innovative policy entrepreneurship unsupported by the “two-speed” immigration regime (if it deserves that name) in Europe

at large. In making this point, it is important to draw attention to the fact that regularizations, guest-worker programs, legal entry quotas, and other policy mechanisms adopted in Spain have served as examples that have been followed by other countries throughout Europe and across the Atlantic.

The major conclusions drawn from this analysis stem from the combination of Spanish influence, pro-European and pro-immigration attitudes, and logical and moral arguments, all of which are inputs in Spanish actors' agency. Such agency, in turn, continues to help drive developing EU policy structures, especially the externalization of control "movement." This gave a Spanish flavor to the broader forces tying immigration policy to foreign policy and contributing to "geographical spillover" as a web of multiple actors, levels, structures, agreements, and policies continues to expand within and beyond the borders of Europe.

A key development in EU immigration policy has revolved around the "fight" against illegal immigration, which is linked with the fight against human trafficking, drug trafficking, terrorism and other reflections of the "dark side" of globalization—or in the European case, integration. This reflects the "stickiness" of the initial securitization of immigration as well as more expansive supranational goals linked to humanitarian considerations. The criminalization of certain forms of immigration allows cooperation because all parties can agree to "fight" something that is "illegal" or "bad," and the EU's external relations epitomize the fusion of security with altruism, simultaneously preserving European self-interest and serving to construct a "positive" self-identity within the global context.

Implications for Immigration Literature

Of the many key implications for immigration literature that emerge from this study, three deserve heightened attention. First, restriction and expansion do not appear to constitute a liberal democratic “paradox.” Rather, border controls are a logical extension of securing free movement of goods, capital, and persons in order to ensure freedom and prosperity for citizens’ internally. Second, the notion of “policy failure” often lacks consideration of the nuances involved in the broader regional context. Many of the “failures” of Spanish immigration policies did not reflect *Spanish* failures so much as *European* failures to cooperate in issues clearly linked by a high level of interdependence reached through European integration. Similarly, the Spanish case does not vindicate the hypothesis that “gaps” between public opinion and elite policymaking create a vacuum necessarily filled by anti-immigrant/immigration sentiment. At least thus far, Spain continues to provide remarkable evidence of other factors (institutional, ideational, historical, cultural, etc.) that mediate and/or constrain the potential for a serious xenophobic movement to gain a political foothold.

Previous studies that emphasized this “exceptional” characteristic of the Spanish case issued warnings about the fragility of pro-immigrant attitudes by pointing to the fact that Spain was among the countries with the lowest numbers of immigrants in Europe at the time.¹ Therefore, according to such positions, when immigration to Spain reached levels comparably high with other European countries, popular xenophobic movements would likely result. The findings of this thesis serve to undermine this argument by updating the facts. Spain has now become *the* top receiving country in Europe without any significant

¹ See Encarnación, “The Politics of Immigration: Why Spain is Different,” p. 176.

popular anti-immigrant effects, although the result of this very recent and rapid development remains an open question requiring close attention in the near future. For example, the analysis in Chapter Four suggests that the structure of the Spanish labor market *has* indeed remained relatively constant over the years, meaning that unskilled immigrant workers take jobs in the tertiary sector and the underground economy that do not threaten domestic labor demand.

Third and most importantly, this thesis *does* affirm many of the findings in the recent literature on the externalization of control in Western post-industrial countries' immigration policies. Despite the many peculiarities of the Spanish case, Spain's immigration policies have not diverged from the externalization "movement" throughout Europe, which is structured by a web of sub-national, non-state, bilateral, multilateral, intergovernmental, and supranational actors. Specific policy mechanisms reflecting externalization include readmission agreements, 'safe countries' for asylum and refuge, development aid, job training, and carrier sanctions, among others. Some of the support for the agenda to address the "root causes" of illegal immigration is grounded in human rights norms, although this does not undermine the ultimately protectionist goals of states seeking to stem unwanted tides of destitute (mainly African) immigrants.² Indeed, the Spanish case suggests that humanitarian appeals are among the most effective sources of bargaining power that allow countries to relocate their control efforts further from home. This thesis also enters the discussion surrounding the efficacy of externalization in the long term. As the locus of "control" moves further south along the West African coastline, immigration resiliently follows suit and simply finds new paths of transit.

² See Lahav and Guiraudon, "Actors and Venues in Immigration Control: Closing the Gap Between Political Demands and Policy Outcomes," p. 207.

From the Spanish case, it does seem that single countries can not “control” immigration in the true sense of the term. Rather, given the culmination of European immigration to this point, cooperation is *necessary* to achieve state control. This conclusion is positioned somewhere between the two extreme arguments that states retain nearly absolute control on the one hand and that they have completely lost control on the other.³

Implications for European Integration, Europeanization and International Relations

The tendency toward restriction in Europe is directly embedded in the logic of European integration—that is, the internal free movement of EU citizens as part of the commitment to market liberalization on the one hand, and “compensatory” external measures in the form of denying the right of free movement to TCNs, heightened border controls, and the externalization of control on the other. Again, this does not necessarily imply a liberal democratic “paradox.” On the contrary, the logic seems straightforward: “One expected that the market would not only improve free movement of law-abiding agents, but would also facilitate illegal and criminal activities by terrorists, international criminal organizations, asylum-seekers and immigrants.”⁴ It is precisely this logic which can lead to the language of “crisis”, and therefore, the categorization of immigration as a “threat” equal to terrorism and transnational crime.⁵ The securitization of immigration is a construction rather than a rational observation of objective properties in the external environment. There are important implications here for the state sovereignty debate in

³ These two positions are represented respectively in Brochmann and Hammar (eds.), *Mechanisms of Immigration Control*, and Sassen, *Losing Control*?

⁴ Huysmans, p 760.

⁵ Ibid.

international relations, theories of European integration, and the literature on Europeanization.

State Sovereignty

Expanding upon the debate over state capacity to “control” immigration, the Europeanizing logic is also located in the “logic” of globalization more generally: economic liberalization begets reassertions of state power in other areas. To see this, let globalization be defined as “the widening, intensifying, speeding up, and growing impact of worldwide interconnectedness,” and divide it into economic, societal, and political components. Then, the economic effects of globalization translate into a transfer of economic activity away from the direct control of states and the societal effects include greater contact among people through e-mails, phone calls, and migration. Economic and societal globalization, then, contribute to a picture of the world where states are losing control of their borders, and by extension, their sovereignty.

However, political globalization does not necessarily vindicate this hypothesis. Certainly, integration (and globalization) has changed political activity. And while some have gone so far as to declare the end of the nation-state, this assumption is naïve. It does seem clear that on some level the “state is not disappearing, it is disaggregating into its functionally distinct parts. These parts...are networking with their counterparts abroad, creating a dense web of relations that constitutes a new, transgovernmental order.”⁶ It is not at all clear, in light of the conclusions of this study, that this transgovernmental order necessarily represents a positive development. Elite-driven policy structures reinforce

⁶ Slaughter, “The Real New World Order,” p 184.

the concern with the “democratic deficit,” and immigration governance continues to advance the “control” approach with weaker implementation of protective measures for TCNs. In short, claims that states are *losing* political control to other actors miss the point. Political organization is clearly adapting to the new opportunities afforded by a dynamic international environment, but ultimately governance cannot function absent the irreplaceable power of state governments. Sovereignty, too, is therefore changing, but not disappearing. This is hardly a novel observation.

If this is the case, what practical or intellectual purpose is served by a globalization-sovereignty debate? The answer lies in a fourth component of globalization, which may be termed “cognitive” or epistemological effects. The value of this fourth component is evident in the analysis of European immigration policy. Fears of declining sovereignty and the language of “crisis” in Europe led government officials to a “securitized” flavor of immigration. Immigration was couched in terms of the “dark side of globalization” and regarded as an issue best addressed by policing and restriction, along with terrorism and transnational crime. The construction of solutions to the threats—real or imagined—posed by globalizing forces profoundly shaped the attitudes of policymakers and societal actors alike. Here, a very interesting point made by Guiraudon should be considered: the same Populist Parties that tend toward anti-immigration are also usually anti-EU.⁷ Interestingly, the Spanish government exhibits a clear tendency to reassert state sovereignty while simultaneously linking sovereignty to the achievement of “European” goals in addition to purely “Spanish” ones. This solidifies the connection between immigration and the very construction of “Europe.”

⁷ Guiraudon, “The Constitution of a European Immigration Policy Domain,” p. 278.

Foreign Policy, Various “Europe(s),” and Geographical Spillover

Chapter Five constructed the case that immigration policy structures are positioned at the potential intersection between EU immigration policy and foreign policy. As Spain displays increasing prominence in promoting Euro-African relations, it has also reached formal and informal agreements with several individual African states related to fighting illegal immigration and terrorism. At the same time, Spanish actors in the private sector have led a charge to invest in the private sector of African countries and the Spanish government has recently advocated and/or introduced policies intended to solicit important forms of legal immigration.

The Spanish case is a compelling one for observation of both externalization and exportation of control. At the same time that Spanish actors play an increasingly prominent role in the “deepening and widening” of Euro-African relations, such externalization is also an instance of complex sets of separate and/or partially overlapping bilateral, multilateral, and intergovernmental arrangements with various “sub-Europes” and “extra-Europes.” The resultant engagements with various “sub-Europe(s)” and “extra-Europe(s)” may complicate the possibilities for common EU immigration and/or foreign policy and therefore exhibit a different view of “Europeanization” that qualifies and limits the prevailing understanding of the term. Moreover, the analysis of Spanish agency reveals conclusions that suggest that a peculiar form of “geographical spillover” may be taking place. This could prove to be a fundamental challenge in the coming years as “burden sharing” and “burden transfer” moves further away from the European “core” to less capable and less accountable states, while both legal and illegal immigrants continue to reach Spanish and European territory. The notion of “geographical spillover”

questions the assumption that Europe's southern border is fixed and therefore should be easier to manage than the changing border to the east.⁸ Immigration challenges the very definition of "Europe," geographically and otherwise.

Conclusion: Final Thoughts and Suggestions for the Future

"Advanced industrial societies must resist the temptation to retreat in the face of immigration's challenge and to retrench behind increasingly restrictive, and ultimately undemocratic, controls. As is becoming apparent, unilateral actions and fortress mentalities misread the complexities of the migration system while denying receiving societies an essential ingredient for their own economic success and social enrichment."

-D. Papademetriou and K. Hamilton⁹

The findings of this thesis and their myriad implications ultimately provide a departure point for tackling the challenges ahead. The Spanish case provides some incredibly interesting insights into the future direction(s) of a European immigration regime, but whether or not soliciting policies will successfully coexist alongside increased control and externalization remains an open question. Where it is beyond the scope of this project to make definite conclusions then, this thesis has further served to introduce many major practical and theoretical concerns that future research can and should help flesh out. Methodologically, a wider range of case studies within Europe and/or comparison across regions would benefit the ideas presented herein by more clearly and effectively establishing causality in the mutual constitution of agency and structures at multiple levels of analysis. Regarding practical and political concerns,

⁸ Joppke, p. 268.

⁹ Demetrios G. Papademetriou and Kimberly A. Hamilton, *Managing Uncertainty: Regulating Immigration Flows in Advanced Industrial Societies* (Washington: Carnegie Endowment for International Peace, 1995), p. 31.

future studies can and must track the progress of the EU's developing policy structures in order to assess the balance between the best interests of a Europe facing aging and shrinking populations on the one hand, and an international environment permeated by human suffering on the other. This thesis has contributed to the basis from which to launch such an endeavor, pointing to some of the possible forms that EU immigration policies may take in the years to come.

The legacy of this study, then, is the gift of many compelling questions ripe for exploration. Will fortress mentalities prevail, or will proactive policies achieve a balance between stemming illegal immigration and soliciting necessary legal forms? Can European countries reconcile different national preferences in order to forge a united front that benefits more long-term collective interests? Does the kind of "Europeanization" suggested by Spanish agency within and without "Europe" threaten the united Europe of the future? Or does it offer promising avenues for cooperation and deeper and wider integration? More fundamentally, how can an international system composed of definite political boundaries capably produce effective mechanisms to regulate an issue area with variegated implications affecting an indefinite and seemingly boundless proliferation of actors? As new sorcerers take on various new apprentices in an emergent regional—and increasingly global—regime, there does not yet appear to be a discernible endpoint in sight for the fragile magic of international immigration governance. Still, interested parties in academic and political circles alike can rest assured that there are many leads to follow and followers to lead.

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